WISCONSIN AND THE NATION

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UNITED STATES OF AMERICA.

STATE CAPITOL, MADISON.

WISCONSIN

AND

THE NATION

BY

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PREFACE.

HISTORICAL NOTE.

France was the first to claim the country, a part of which is now Wisconsin.

The zeal of the French missionaries in their endeavors to carry the Gospel to the natives of the interior of America led to the explorations in the Mississippi valley and the possession of this now important part of the country by the French nation.

As a result of the French and Indian War the territory, belonging to France, east of the Mississippi was ceded to England.

The Revolutionary War transferred the possession of this district along with all other English territory in what is now the United States to the colonies forming the Confederation of America, and upon the formation of the Union, Wisconsin became a part of the territory of the United States.

Thus our state has successively belonged to the French, the English, the Confederation of the American Colonies, and the United States.

The country west of Pennsylvania and north and west of the Ohio River and east of the Mississippi River was early known as the Northwest Territory.

Virginia and other of the original colonies claimed parts or all of this territory and as a settlement of these

adverse claims, a compromise was proposed by Virginia by which this section of country was organized as a separate territory (Ohio) under the Ordinance of 1787.

Wisconsin was a part of Ohio territory from 1787 to 1800; of Indiana from 1800 to 1809; of Illinois from 1809 to 1818, and of Michigan from 1818 to 1836.

Wisconsin was organized as a separate territory in 1836 at which time it comprised its present extent, together with what is now Iowa, Minnesota and about half of the Dakotas.

Several attempts were made to secure the admission of Wisconsin as a state. The territorial legislature submitted it to a vote of the people three times and each time the vote resulted against state organization.

In 1846 a constitutional convention was called which drafted a constitution, but upon its being submitted to a vote of the people it was rejected.

The next year a second convention was held which framed our present constitution (excepting the amendments) which was accepted by the people, and Wisconsin was admitted as one of the states of the Union, May 29, 1848.

Territorial Government.—Being a part of the Northwest Territory, Wisconsin, while a territory, enjoyed the privileges and liberties assured to that district by the Ordinance of 1787.

This ordinance was the result of a dispute among the original colonies as to the possession of the territory northwest of the Ohio River.

Virginia among others of the colonies laid claims to this country and to settle the dispute proposed the Ordinance of 1787 as a compromise.

This ordinance provided for the organization and government of the territory as a sort of possession of all of

the colonies, and moreover, assured to the inhabitants of the Northwest Territory certain rights and privileges which were to remain forever inviolate, unless changed by common consent.

The ordinance was, then, a compact or contract of the original thirteen states on the one hand and the people of the Northwest Territory on the other. The provisions embraced within the ordinance were ideal and in many respects in advance of the governmental ideas prevalent among the colonies at that time. One of the articles of the ordinance prohibited slavery within the territory. This was the first blow to slavery and it proved quite effectual in its after results as it prevented, probably, the admission of slavery into the three southern states of the district, Ohio, Indiana and Illinois. The ordinance contained many other good features, the most of which have been embodied in our state constitution.

THE STATE.

CHAPTER I.

INTRODUCTION.

Government Defined.—Government may be defined as the means by which a people are ruled; or the regulation, restraint, supervision or control which is exercised upon the individual members of an organized legal society by those invested with the supreme political authority, for the good and welfare of the general public.

Webster defines government as the system of polity in a state; or that form of fundamental rules and principles by which a state or nation is governed.

Kinds of Government.—Many kinds of government have existed in the world, and the various governments in existence to-day differ widely.

A monarchy is a government by a single person. If this one person has all of the powers of the government, it is an absolute monarchy; but if his powers are limited or prescribed, it is a limited monarchy. The absolute monarchy may be called a despotism, or a government by a despot, in which the will of one person, the monarch, the despot, is law and supreme. A limited monarchy is a constitutional monarchy governed by fixed rules of law. An aristocracy is a government by a certain few of the

people, or a class, in whom are vested all the powers of the whole. If such class should chance to be church officials, priests, the government would be a hierarchy.

A democracy, or republic, is a government such as ours, in which all powers reside with the people composing the state or nation. A pure democracy is one in which the people rule primarily without the means of representatives or agents. A pure republic is a government in which the people rule indirectly through their chosen agents or representatives. The two terms, however, democracy and republic, are often used interchangeably.

Thus it may be sufficient to say there exist three general forms of government; viz.: monarchies, aristocracies, and republics. Every government, in the main, resembles one of these three, differing from others in the same class in minor details.

The Purposes of Government.—The object of government should be to combine the force and ability of all of its members: (1) To secure to its weaker citizens their just rights; (2) To restrain the strong and vicious from committing wrong; (3) To maintain the rights of its people as against foreign nations; and (4) To promote institutions (roads, schools, canals, etc.) for the benefit of the general public.

That government is best which performs these purposes to the fullest extent.

Constitutions.—In order that those in authority may not go beyond and over-reach the real purposes for which governments are formed, constitutions are adopted prescribing certain limitations to governmental action. These are invariably for the safety of the people, guarding them against the wrongful acts of the rulers, or those in authority. A constitution, therefore, may be defined as

the rule which limits the action and prescribes the powers and duties of a government, and the methods by which these powers and duties shall be administered.

It will be seen from this definition that constitutions are not necessarily written; in fact the world had until recently but few examples of written constitutions.

Quite often the constitution of a nation exists in no more tangible form than mere public sentiment, or the resolutions of public assemblies, or proclamations of those in authority delivered in a more or less authoritative manner.

Black's Law Dictionary defines constitution as the organic and fundamental law of a nation or state, which may be written or unwritten, establishing the character and conception of its government, laying the basic principles to which its internal life is to be conformed, organizing the government and regulating and limiting the functions of its different departments, and prescribing the extent and manner of the exercise of sovereign powers.

Mr. Cooley says that a constitution in American law is the written instrument agreed upon by the people of the Union, or of a particular state, as the absolute rule of action and decision for all departments and officers of the government in respect to all of the points covered by it, which must control until it shall be changed by the authority which established it and in opposition to which any act or ordinance of any such department or officer is null and void.

Wisconsin, and the same is true of the otner states and the United States, has a written constitution declaring the fundamental principles of the government.

Constitutions which are not written are usually undefined, uncertain and liable to change, while a written

constitution has the advantage of certainty, definiteness and is not easily changed. Written constitutions are therefore more lasting and better fitted to govern an enlightened people and are therefore of recent institution.

The States in General.—The term, state, is usually used to designate an independent government free from all restrictions with no power or nation which it recognizes as its superior.

Thus England, France, and Germany are states, none of which recognize any government superior in authority to itself. They are free to do as they see fit, with no governmental power to dictate to or rule over them.

Such was the case with the American colonies immediately after the Revolutionary War and until the formation of the Union in 1789. During this short period New York and the rest of the thirteen original colonies figured in our history as separate, free, independent states or nations. They were leagued together in the confederation of America for self protection, it is true, but in no sense was any state subordinate to the confederation, or bound to submit in any degree to its authority. They were sovereign states, nations in the full sense of the terms.

By the formation of the Union the states making up the United States are in peculiar positions. They are not states in the sense of being nations, as the government of the United States is superior to, and above them in some respects, and yet they are not subject possessions of the United States, for they have certain governmental powers assured to them with which the national government cannot interfere.

In certain matters the states of the Union are left free to act as though absolutely independent; in others of a more national character, they have no authority whatever. International affairs, such as treaties, wars, inter-

state commerce, are not within the scope of the states' authority. In general, however, they have complete and exclusive control over internal matters of a local nature, such as town, county and municipal government, local taxation, and state institutions. The states have authority to do anything which the constitution of the United States has not in express or implied terms prohibited them from doing.

They have authority of a general nature, more extensive than that of the nation, for the United States has no power which is not granted it by its constitution while the states have all powers not prohibited them by that constitution.

This, however, must not be interpreted to restrict the powers of the national government so far as to deprive it of the power of self-preservation which is "nature's first law," as well among governments as elsewhere.

The state's rights advocate finds no support in the above remarks.

Wisconsin as a State.—As one of the states of the Union, Wisconsin has thereby all the rights and privileges which other states of the Union enjoy. The thirteen original states have no more rights or privileges than has the youngest state in the Union. Upon being admitted into the Union the new state becomes of equal rank, as far as its civil and political rights are concerned, with those states which first united to form this great nation.

The Change to State Government.—As a territory our government was largely administered according to the principles outlined in the Ordinance of 1787.

Upon admission as a state the laws which had before prevailed in the territory were either embodied in the state

constitution, or were adopted by it as the laws of the state, excepting those laws which were in conflict with the state constitution.

The state became possessed of all the rights which before belonged to the territory and also assumed all the obligations of the former government.

The assets of the territory became the possessions of the state, and the liabilities or debts of the territory were assumed by the state.

The contractual and other relations between individuals remained the same after admission as before so that the change in government did not disturb previous property rights and conditions.

Preamble.—The purpose of establishing the constitution is declared in its preamble as follows: "We the people of Wisconsin, grateful to Almighty God for our freedom, in order to secure its blessings, form a more perfect government, insure domestic tranquillity and promote the general welfare; do establish this constitution."

The various clauses of the constitution are to be interpreted according to those purposes sought to be accomplished by it.

The Departments of Government.—Where one person, or a few persons, have complete control of governmental affairs, they are very apt to abuse the authority entrusted to them by the people.

The experience of the past has shown men that it is not safe to give too much power to a single man, or set of men. Under such a governmental system tyranny is the almost certain result.

It has been thought wise, therefore, to divide the powers of the government among different bodies of men.

This is the plan of the United States and the state governments in general.

We have the government divided into three departments, the legislative, the executive and the judicial.

The duties of these departments are so prescribed that each, in a measure, watches the transactions of the other two. They are thus a check upon each other, as will be seen upon further study.

It is the especial purpose, or duty, of the legislative branch of our government to enact or make the laws; of the executive, to execute, administer and enforce the laws, and of the judicial to determine what the law is in any particular case which properly comes before it.

CHAPTER II.

THE LEGISLATIVE DEPARTMENT.

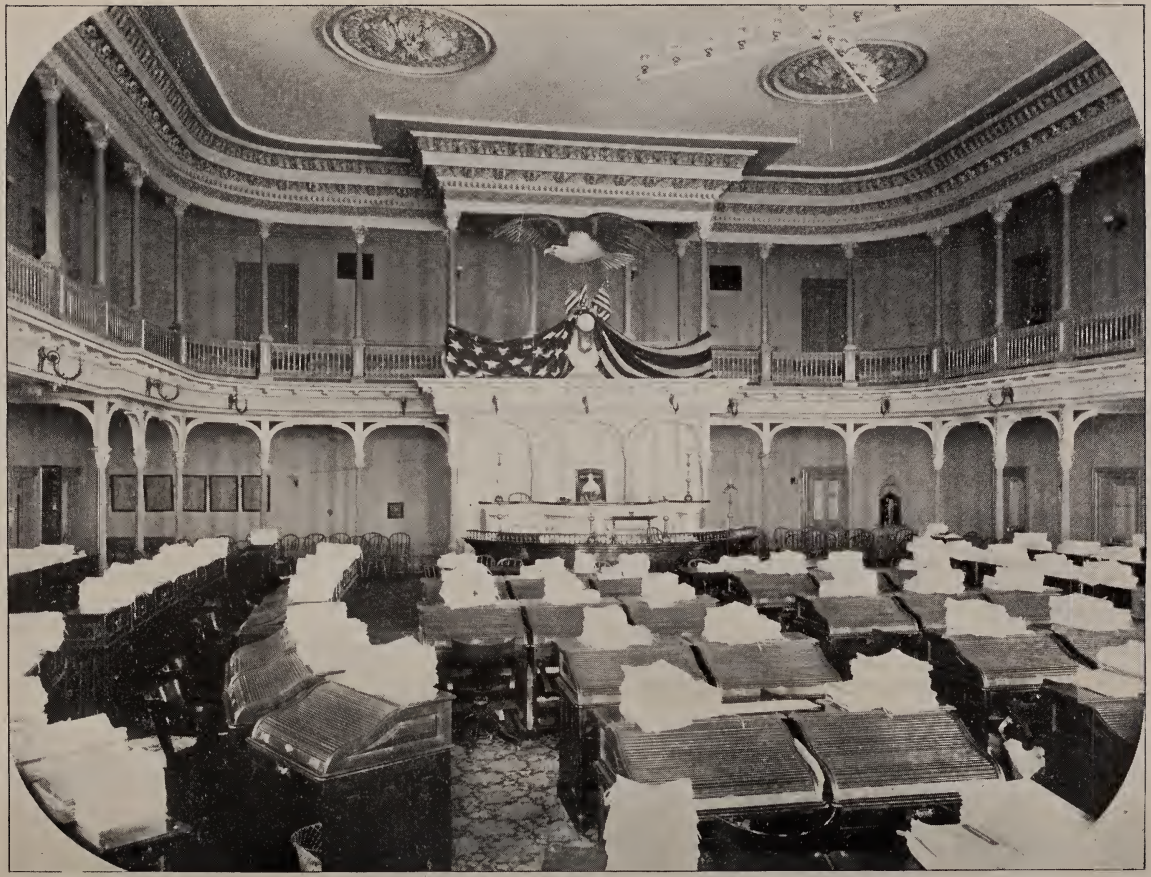
The Legislature.—The law-making power of Wisconsin is given to, or vested in, a senate and an assembly.

It is generally conceded to be a wise plan to thus divide the legislative power between two bodies or houses, that the laws may be enacted with more care and less rashness than would be the case with a single legislative body left free to enact laws as it might see fit, without the wholesome restraint of a similar body, equally powerful with itself, under whose scrutiny the same measures must pass before they become laws.

The Senate—Term and Election of Senators.—The senate is the conservative body of the state legislature, being composed of a smaller number than is the membership of the assembly, and elected for longer terms. It is looked upon as the higher branch of the legislature, and bears a relation to the other departments of the state government similar to that which the United States senate bears to the other branches of the federal government.

The number of senators can never be more than one-third, nor less than one-fourth, the number of the members of the assembly.

The state is divided into thirty-three senatorial districts at present. One senator is chosen from each district. As there are only one hundred members of the assembly, it will be seen that we now have as many senators as the constitution allows.



SENATE CHAMBER, THE CAPITOL, MADISON.

The senators are chosen at the general fall elections at the same time and in the same manner as other state officers are chosen, excepting judicial officers elected in the spring, and they hold their office for a term of four years. The senatorial districts are numbered consecutively, and the odd and even numbered districts alternate in the election of senators. All odd numbered districts elect their members of the senate the same year, and two years later are elected the members for the even numbered districts. As the legislature meets in regular session every two years, there is, by this plan of alternate election, about one-half of the membership of the senate who were members of the last session, and are experienced in the work which they are called upon to perform.

The Assembly—Term and Election of Assemblymen.—The number of the members of the assembly can never be less than fifty-four nor more than one hundred. We have reached the full limit here also, and have one hundred assemblymen elected from as many assembly districts into which the state is divided. They hold their office for a term of two years—one regular session.

The assembly for each regular session is an entirely new body, unless, as is usually the case, some of its former members are re-elected.

Census and Apportionment.—The census of the whole United States, and, consequently, of each state, is taken every ten years, in those years of which ten is an exact divisor, by the federal government. Midway between the times of taking the census by the United States, on those years, the number of which ends with five, the census of the state is taken.

The census is an enumeration of the inhabitants, and a gathering of other useful statistics regarding age, property,

education, poor, etc. Thus it will be seen that the census of Wisconsin is taken every five years.

The reason for having the census taken so often is that the senate and assembly districts may be changed, reapportioned every five years, that the population of the thirty-three senatorial districts may be nearly uniform, and that the same may be true of the one hundred assembly districts. The idea is to have one senator represent as nearly as possible the same number of people as another senator does, and so with the assemblymen also.

The senate and the assembly districts are therefore reapportioned at the next session of the legislature after each enumeration of the inhabitants, or every five years. In the apportioning of the districts each district must consist of contiguous territory and be bounded by county, precinct, town or ward lines.

For political purposes unfair apportionments are sometimes made which violate these requirements as to boundary lines and contiguous territory. Such an apportionment is called a gerrymander, from Mr. Gerry of Massachusetts, who was governor of that state when such an apportionment was made.

Qualifications of Legislators.—To be eligible to membership in either house of the state legislature one must be a qualified elector of the district which he represents, and must have resided in the state one year. The constitution requires one year's residence in the state to become a qualified elector, so that the above requirement of a one year's residence is a mere repetition.

The only qualification necessary to eligibility, then, is that one be a qualified elector of the district from which he is chosen.

Judges of Membership.—It is often a very difficult question to determine who has been elected to a seat in the legislature. Not infrequently two men will claim to be elected from the same district. The members of the house in which the contest for the seat occurs are made the judges of the election, and they determine as between the rights of the two contestants. In the language of the constitution "each house shall be the judge of the elections, returns, and qualifications of its own members." Great injustice might result were any other department of the state government to determine who are members of the two houses of the legislature.

Quorum.—Where a number of men in a body have the power to do certain things it is very necessary that the smallest number which would be allowed to conduct the business entrusted to them all should be particularly designated, as in a numerous body some are very apt to be absent a part or all of the time. This number in such a body is the quorum. A quorum, then, is the number necessary to be present to transact business.

In each house of our state legislature a quorum is a majority of the members belonging to the body. A majority is any number over one-half. A quorum in the senate, therefore, is seventeen or more, and in the house fifty-one or over.

In case a quorum of either house at any time do not attend, a smaller number may adjourn from day to day, and may also compel the attendance of absent members by authorizing the police officer of the house, the sergeant-at-arms, to arrest the absent members and bring them before the house.

Rules—Contempt.—The rules by which the houses conduct their proceedings are determined by each house

for itself. Moreover each house is authorized and empowered to punish for contempt or any disorderly behavior, and two-thirds of the whole membership of either house may expel a member.

It is provided, however, that no member shall be expelled a second time for the same offense. The probable reason for the last provision is this: if the people of any district see fit to re-elect a member who has been expelled from either house of the legislature, they thereby approve of his conduct and adjudge him a fit person to represent their interests in the house.

Officers.—Each house elects its own officers. The senate elects a president *pro-tempore* to act as president of the senate in the absence of the lieutenant-governor, who is *ex-officio* the president of the senate. The assembly elects a speaker (of the house) who is the presiding officer of that body. In addition each house has a chief clerk, with several assistants, a sergeant-at-arms and a troop of messenger boys. In all elections by the legislature the members must vote *viva voce*, by word of mouth, and their vote is entered in the journal.

Publicity of Proceedings.—The legislature is preeminently the servant of the people, who should have all possible means of being informed of its proceedings. Because of this truth the business transacted by each house is kept in a minute book called the journal, which is published. The doors of both houses are kept open and the public are free to enter and observe whatever is done.

There is this exception, however, to the publicity of proceedings: Certain proceedings of a delicate or otherwise peculiar nature should be kept secret, such as accusations in the assembly of the nature of impeachment of

some public officer; contempt proceedings, and executive sessions. The latter, executive sessions, are sessions of the senate in which are considered matters especially laid before them by the governor, such as the approval of appointments made by the governor to fill vacant offices. It is not best that such things should be made public.

Adjournments.—The two branches of the legislature must work together. A measure passed by only one house can never become a law. One house sitting alone can do nothing in the way of legislation. It is therefore provided that neither house can adjourn for more than three days without the consent of the other.

Meetings.—The legislature meets in regular session once every two years, on every odd numbered year, at the seat of government, Madison, at 12 o'clock M. on the second Wednesday in January. Originally the legislature met annually, but in 1881 the constitution was amended, providing for biennial meetings.

Special sessions of the legislature may be convened by the governor at any time when he deems such a thing necessary. In the call for a special session must be stated the special business to be transacted, or the purpose for which the legislature is convened, and no business not included in the purpose for which the call was made can be transacted.

CHAPTER III.

THE LEGISLATIVE DEPARTMENT—CONTINUED.

Ineligibility of Members to Office.—No member of the legislature can, during the term for which he was elected, be appointed or elected to any civil office in the state, which has been created, or the emoluments (salary) have been increased during his term of office. This is to prevent legislators from using their influence to create offices to which they can be appointed, and from raising the salaries of the same.

Ineligibility of United States Officials.—No United States official, either civil or military, is eligible to a seat in the state legislature. It must here be remembered that United States senators and representatives (Congressmen) are United States and not state officers, and if a state legislator accepts an office, either by appointment or election, under the United States government, he thereby vacates his seat in the state legislature. If this were not so provided such officials holding the two offices would be apt to use the influence of the one office to be re-elected or reappointed to the other.

The constitution aims to guard against all such evil practices; also, neither can a man faithfully serve two masters.

Vacancies.—Vacancies in either house of the legislature are filled by special elections ordered by the governor.

Privileged from Arrest.—Members of the legislature are not subject to arrest for any cause except treason, felony and breach of the peace, nor are they liable upon any civil process during the session of the legislature, nor within fifteen days before or after any session.

This is a protection to the rights of the people as well as those of the member. But for this provision the people's agents in the senate or assembly might be taken away from their legislative duties by crafty, unprincipled men, at a time when their presence and vote was most needed.

Privilege in Debate.—It is most essential to good legislation that the members be perfectly free to discuss without fear any question before the house. That this much-desired condition may prevail, members of the legislature are not liable in any civil action or criminal prosecution for anything which they may say in debate.

Compensation.—Members of the legislature receive five hundred dollars for every regular session, together with a mileage of ten cents per mile, both ways. No extra compensation of any kind is allowed.

In case an extra session of the legislature is called no additional compensation is allowed, except that each member receives his mileage the same as for a regular session.

It is the policy of American institutions in general to allow its public officers a reasonable compensation. This enables men of ability but of moderate wealth to accept public positions, and such usually make our best public servants.

No additional compensation is allowed in case of extra sessions, the idea being that the legislation should be completed in the regular session, and an additional compensation would tend to make special sessions more frequent without any additional good to the people.

Bills.—A bill is a proposed law. The style of all bills or laws must be: "The people of the state of Wisconsin, represented in senate and assembly, do enact as follows," and then is stated the substance of the law or bill. All laws must be enacted by bills.

Every bill is entitled to designate its nature for the convenience of legislators. There are two classes of bills and laws—general, and local or private. General bills or laws are such as affect the people of the whole state more or less. Local or private bills or laws are such as apply in some particular part of the state only, or apply to only one or a few individuals.

To prevent the passage of local bills inadvertently, it is required that each local bill shall embrace but one subject, which must be expressed in the title. Bills may originate in either house, and a bill passed by one house may be amended in the other.

Yeas and Nays.—Upon the calling for the yeas and nays on any question or bill before the house, each member is asked which way he votes, and he must respond publicly, and his vote is recorded in the journal.

One-sixth of the members of the house may call for the yeas and nays on any question. This method of voting is thought to make the members more careful, as they are liable to be held to account by the people for the way they vote on a question.

There are a few cases in which the legislature must vote by yeas and nays, whether called for or not, upon the final passage of these bills. They must vote by yeas and nays: Upon any bill creating a state debt; upon any bill of a financial nature; upon the passage of a bill over the governor's veto, and upon a resolution amending the constitution.

ASSEMBLY CHAMBER, THE CAPITOL, MADISON.

Lotteries.—A lottery is a method of distributing prizes for the obtaining of money or goods by chance. The constitution especially prohibits the legislature to ever authorize the operation of any lottery.

The need for such a clause as this will be appreciated when it is known that one state of the Union, Louisiana, had in operation for years an organization known as the Louisiana State Lottery, licensed by the legislature as a means of raising revenues for the state.

The above is only a restriction upon the legislature, it will be noticed, so it became necessary for the legislature to pass very stringent laws prohibiting lotteries and all sorts of gaming contracts.

Divorces.—The legislature is also prohibited from granting divorces, but it may authorize the state courts to grant divorces in certain cases, as has been done.

A divorce is the legal separation of man and wife, or the annulment of the marriage contract. Divorces are usually granted only upon very grave causes.

Public Printing and Stationery Contracts.—The constitution provides that the contracts for stationery required for the use of the state, and for printing for the use of the legislature or the state, must be let to the lowest bidder, and the legislature is required to make laws, which it has done, prescribing the manner of letting these contracts. This is a precaution to prevent the successful political party from rewarding newspapers and others for their campaign services by printing contracts let to them at high rates. It is also further provided that no legislator or state official can in any way be interested in the contract for the state printing.

Extra Compensation to Officials.—For purposes of reward for political services legislative bodies often grant or attempt to grant, additional compensation to public officers or contractors. To prevent this evil the legislature of Wisconsin is especially prohibited from granting such extra compensation to any public officer, agent, servant or contractor after the services are rendered or the contract entered into. Neither can the compensation of any public officer be increased or diminished during his term of office. This leaves all officials free to act independent of legislative influence, without hope of reward or fear of a decrease in salary.

Suits Against the State.—It was one of the ideas of common law, and one that generally prevails in all governments that an individual cannnot sue the state unless the state consents to allow the suit.

In accordance with the direction of the constitution, the legislature has enacted that one who has a claim against the state must first ask for justice at the hands of the legislature but if the legislature refuses him relief, he may sue the state by beginning an action in the Supreme Court. The attorney-general represents the state in all such suits.

In cases where one has a right to prevent the state from doing a certain act he may sue out an injunction to prevent the performance of the act without first presenting his case before the legislature.

Restrictions Upon Private Legislation.—There are several cases in which the legislature is denied the right to legislate upon private and special matters. Not that such matters would not be the proper subject of legislation, but because the same ends can be more readily accomplished by general laws which apply in all cases, and

because the time of the legislature should not be taken up with such measures needlessly.

Among the things for which the legislature may not pass any special or private laws but may enact general measures to accomplish the same ends are: 1st, the changing of persons' names; 2nd, making or altering highways. (They may establish military and state roads, however, under certain conditions); 3d, the granting of ferry franchises; 4th, the authorizing the sale or mortgage of the property of minors or others not competent to control their own property; 5th, the locating or changing of county seats; 6th, the assessment and collection of taxes; 7th, the granting of corporate privileges to private corporations, or municipalities; 8th, the apportionment of any part of the school fund.

The legislature, however, is instructed to enact general laws, which has been done, by which the above ends may be accomplished.

Municipal Legislation.—In general it may be said that primarily the state legislature has power to make all laws for the state in accordance with the constitution, but local interests would undoubtedly suffer harm were all their laws to be enacted by the general legislature.

It is therefore provided that the legislature by general laws upon the subject may, and it has done so, confer upon the county boards of supervisors certain legislative powers concerning local affairs, and to a limited extent even town boards may legislate, and under their corporate franchises villages and cities are always given certain legislative powers. The township and county governments, are merely aids to the general state government.

Cities are incorporated usually to effect local improvements in which the state in general has little interest.

Federal Restrictions on State Legislation.—The United States Constitution places several direct restrictions upon the state legislative power which should be remembered in connection with the power of the state legislature. No state can enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

In addition to the above there are several things concerning which the state may not legislate without the consent of Congress first obtained.

No state can, without the consent of Congress, lay any imposts or duties on imports or exports except what may be absolutely necessary for executing its inspection laws; and the net product of all duties and imposts laid by any state on imports and exports must be for the use of the United States treasury; and all such laws are subject to the revision and control of Congress.

No state can, without the consent of Congress, lay any duty of tonnage; keep troops or ships of war in time of peace; enter into any agreement or compact with another state or with a foreign power; or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

How Laws Are Made.—There are three methods by which a bill may become a law: (1) If a bill passes both houses of the legislature and is then approved (signed) by the governor it becomes a law. (2) If after the bill passes both houses, the governor sends it back and refuses to sign it the bill may be passed over the governor's veto, as it is called, by again passing both houses in the same

order as before, by a two-thirds vote of each house. It then becomes a law without the governor's approval. (3) If after passing both houses and being sent to the governor he fails to sign or veto it within three days (Sundays excepted) it becomes a law.

If, however, the legislature should adjourn before the three days expire and the governor fails to sign the measure it does not become a law but is lost.

CHAPTER IV.

THE EXECUTIVE DEPARTMENT.

The Executive.—The second department of the state government, the executive, is that department which executes and administers the laws enacted by the legislature. The governor of the state is at the head of this department and is the chief executive of the state. A great deal of power is given this one man, but his duties are such that they must be done speedily, without delay, and a number of men would necessarily act more slowly and would shift responsibility from one to the other.

The Governor, Eligibility of.—The governor must be a citizen of the United States and a qualified elector of the state. There are no qualifications as to age except the one which requires him to be an elector. The qualifications of the lieutenant-governor are the same as those of the governor.

Election of Governor and Lieutenant-Governor.—The elections for governor and lieutenant-governor are held at the general fall elections on the Tuesday after the first Monday of November on every even numbered year. They are elected by the qualified electors of the state. The person receiving the highest number of votes for governor is elected, but should there be two such the two houses of the legislature at its next regular session by a joint vote choose one of the two to be governor.

The lieutenant-governor is chosen in the same way in case of a tie vote.

Compensation.—That men of limited means may afford to accept of an election to the office of governor, he is paid an annual salary of five thousand dollars. No extra amount is allowed him for travel or other personal expenses.

Powers and Duties.—The governor holds a most responsible position, and upon a judicious exercise of his powers and a faithful performance of his duties depend largely the prosperity and general welfare of the state.

His office is one of dignity and responsibility and his duties are numerous and varied.

Commander-in-Chief.—Although the state can have no regular standing army, it is allowed to maintain a militia which is composed of ordinary citizens who are drilled in military tactics to a limited extent, but who pursue their regular civil occupations at all times except when called out to defend the state or nation from attack or put down rebellion. The militia is a means of self defense, but cannot be used to make war upon another state or nation as an aggressive force.

The governor is the highest officer of the militia and as such is the commander-in-chief of the military and naval forces of the state.

May Convene the Legislature.—At times extraordinary needs arise calling for some action on the part of the legislature. If at such times the legislature is not in session, the governor may, if he thinks it will be to the advantage of the state, convene the legislature in extra session. In the call for an extra session of the legislature

the governor must specify the subjects upon which the legislature is to act.

In case of contagious disease or other necessity, the governor may convene the legislature at some other place than the capital city, (Madison) either in regular or special session.

The Governor's Message.—At the commencement of every session of the legislature, it is made the duty of the governor to communicate to the legislature a general report of the condition of the various departments and institutions of the state, and make such suggestions as to legislative measures to be considered by the two houses as he may deem proper.

This is the governor's message in which he points out defects in the present laws which need changing, and indicates new measures which he thinks should be passed.

Enforces the Laws.—It is the general duty of the governor to carry into effect the various measures adopted by the legislature, preserve the peace within the state and enforce and administer the laws.

If necessary in order to perform the above duties he may call to his aid the state militia.

Pardons.—Courts of law have little or no discretion; they must proceed according to the general course of the law. The law, although it may generally do perfect justice, does not do exact justice in all cases. Now and then the rigor of the legal penalties should, in justice, be mitigated, and thus the executive is given a large discretion in this regard. The governor may *pardon* a person convicted of any crime under the laws of the state, except treason and cases of impeachment. A pardon forgives the offense committed and restores the person to all of his former

rights. In cases of conviction for *treason* the governor may suspend the execution of the sentence until the next session of the legislature, which body may pardon the traitor; or commute, order the execution of, or grant a further reprieve of the sentence, as it may see fit.

The governor may *commute* the sentence of one convicted of any offense except in case of treason or impeachment. The commutation of a sentence changes it to some lesser punishment, as from a sentence of imprisonment for life in the penitentiary to a sentence for a certain number of years. The sentence can never be changed to a greater punishment.

In the above case the governor may also grant a *reprieve* from the sentence, which is a stay of the execution for a stated time.

Pardons are often granted criminals who have nearly served their time in the state prison, as a reward for good conduct. Such pardon restores the convict to full citizenship and the same rights as he would have, had he never been in prison.

In any of the above cases the governor must report to the next legislature all such pardons, commutations or reprieves.

The Veto Power.—The governor is given the authority to veto all bills passed by the legislature. This veto power is his right to approve or object to any bill which has passed both houses of the legislature before it can become a law. If he approves of such a bill he signs it, and it thereby becomes a law. If he objects to it, he usually states his objections which are reported to the legislature and the bill must then receive a two-thirds vote of each house, in which case it becomes a law against the governor's objections and is said to be passed over the

governor's veto. A bill not returned by the governor to the legislature within three days, Sundays excepted, becomes a law without his approval, unless the legislature by its adjournment prevents its return.

The Lieutenant-Governor.—The lieutenant-governor is elected in the same manner, at the same time, and serves for the same term and has the same qualifications as the governor. He receives as compensation one thousand dollars for every session of the legislature, and mileage both ways for any session at the rate of ten cents per mile.

Duties.—The lieutenant-governor is *ex-officio* the president of the senate, but he has no right to vote in that body except in case of a tie, when he may have the casting vote.

In case of a vacancy in the office of governor, or the latter is out of the state, the lieutenant-governor acts as governor, and has all the powers pertaining to the office.

If, during a vacancy in the office of governor, the lieutenant-governor should become disqualified or unable to act, the secretary of state acts as governor.

The Administrative Officers.—The President of the United States has the cabinet officers who have charge, under the direction of the president, of the various branches of the federal government, as assistants in the administration of governmental affairs. The administrative officers of the state might be compared to the members of the president's cabinet, but this distinction must be noticed: The president appoints his cabinet, while the most of the administrative officers of the state are elected by the people.

The duties of the state administrative officers are pre-

scribed by statute, and they act independent. The governor has no direct power over them, as they act within their own discretion. In this regard the executive departments of the federal and the state governments differ very much. The secretary of state, treasurer, attorney general, state superintendent, railroad commissioner and insurance commissioner make up what are known as the administrative officers of the state. They, along with the governor, lieutenant-governor and the members of the legislature, are elected at the general fall elections on the first Tuesday after the first Monday in November of even numbered years. They hold their office for two years.

The Secretary of State.—The secretary of state is required to take the oath of office prescribed by the constitution, and give a bond in the sum of twenty-five thousand dollars, conditional for the faithful performance of the duties of his office. He receives a salary of five thousand dollars per year.

He is required to keep a record of the official acts of the executive department; to keep the state seal, and affix the same to all commissions issued by the governor, and to other official documents issued by that officer; to keep all books, maps, charts and many other official papers and documents belonging to the state and deposited or used in his office.

He acts as auditor of the state, in which capacity he is required to keep an account of the financial affairs of the state in general, and draw all warrants upon the state treasurer.

The State Treasurer.—The treasurer is also required to subscribe the constitutional oath of office and give a bond in the sum of one hundred thousand dollars,

conditioned to faithfully perform the duties of his office, which bond may be increased in amount if necessary. He receives an annual salary of five thousand dollars. He has charge of all the state funds, receives all money paid into the state treasury, and pays the same out on warrants drawn by the secretary of state.

Attorney General.—The attorney general subscribes to the constitutional oath of office, and gives a ten thousand dollar bond, conditioned for the faithful discharge of the duties of his office. As compensation he receives an annual salary of three thousand dollars.

It is his duty to prosecute or defend all actions in the supreme court in which the state is a party. He is required to give legal advice to district attorneys of the state and render written opinions on any legal question, when required, to either house of the state legislature or to any of the other state officers.

State Superintendent.—The superintendent of public instruction subscribes to the usual oath of office, but is required to give no official bond. He has general supervision of all of the common schools of the state, and is closely connected with the management of the normal schools and the state university.

The constitution limits his salary to one thousand two hundred dollars, which cannot be increased without amending the constitution. Such an amendment was rejected by a vote of the people at the fall election for 1896.

Railroad Commissioner.—It is the duty of the railroad commissioner to license palace car companies operating in this state; to enforce all laws regulating the operating of railroads within the state, and inspect and examine the condition of all railroads with relation to the public safety and convenience. He investigates complaints

against the companies and renders decisions thereon, from which decisions appeals may be taken to the state courts. He is required to take the usual official oath, and receives a salary of three thousand dollars.

Commissioner of Insurance.—The commissioner of insurance has general supervision over all insurance companies doing business in this state. He may grant licenses to companies to write insurance in the state, and may revoke licenses for cause. He investigates the financial standing of the various companies and issues reports of such investigations. He prosecutes, or causes to be prosecuted, all companies who may do business in violation of law. His compensation is three thousand dollars per year. He also takes the official oath.

Appointive Offices.—In addition to the above administrative officers, all of which are elective, there are six departments of the state government presided over by officers who are appointed by the governor by and with the advice and consent of the senate.

I. The commissioner of the bureau of labor, census and industrial statistics is appointed for a term of two years. It is his duty to collect statistics of manufactures, industrial classes and the material resources of the state, and especially to examine into the relations of capital and labor, the protection of life and health in factories, and he has various other similar duties. He receives a salary of three thousand dollars.

II. The state treasury agent is appointed by, and holds his office at the will of, the governor. He superintends and enforces the laws relative to the licensing of all peddlers and others selling goods by traveling from house to house, and licenses all such persons who are required by

law to obtain a license. He is allowed twenty-five per cent. of all fees which he receives in payment to the state for such licenses as compensation for his services.

III. The department of public lands is under the control of a board of commissioners made up of the secretary of state, state treasurer and attorney general, who appoint a chief clerk who has charge of the land office in the capitol.

IV. The adjutant general is next to the governor in command of the state militia. It is also his duty to assist in the procuring of pensions for soldiers in the civil war.

V. The quartermaster general has charge of the equipage of the state militia and superintends the supply department.

VI. The department of public property is presided over by a superintendent, who has charge of the state property at Madison not otherwise provided for. He looks after the repair and alteration of the capitol building and grounds and supervises its furnishings.

OUTLINE FOR REVIEW OF STATE OFFICERS.

OFFICERS.	PRESENT INCUMBENT.	TERM.	HOW CHOSEN.	WHEN CHOSEN.	BOND.	SALARY.	DUTIES.
Governor							
Lieut.-Governor							
Secretary of State							
Treasurer							
Attorney-General							
Supt. Pub. Instruction							
Railroad Commissioner							
Insurance Commissioner							
APPOINTIVE OFFICES.							
Labor Commissioner							
Treasury Agent							
Com. of Public Lands							
Adjutant-General							
Quartermaster-General							
Supt. of Public Property							

CHAPTER V.

THE JUDICIAL DEPARTMENT.

The Judiciary.—The third general division of the state government is made up of the judiciary, which is the department of government that expounds the laws, or the body of officers (judges) who apply the law. They determine what the law is in any particular case properly brought before them. The constitution vests the judicial power of the state in the supreme court, circuit courts, courts of probate, and in justices of the peace, and allows the legislature to establish municipal and other inferior courts whose jurisdiction can never exceed that of the circuit court, nor can the terms of office of such courts be longer than the circuit court term.

Importance.—No department of government can truly be said to be more important than another, for each is equally essential to the well-being of the whole. The student will observe, however, that the legislature is unable to enact laws enough to cover every contingency. Thus the constitution, together with all the laws passed by the legislatures alone, are insufficient to do justice between man and man in the multitude of cases that may and do arise every day.

Courts have found it necessary therefore, to decide cases, in which there is no statute law, upon principles of right and justice which can be laid down as a rule by which all similar cases arising later may also be decided.

These many decisions rendered by the courts of England, from their founding to the present time, have been adopted by the various states of America, Wisconsin among the others, as the law in the states of this country, and is known as the common law.

This common law is found only in the decisions of the courts, reported by court reporters, and in text books discussing the points of law gathered from those decisions. A complete library of the common law would probably contain over one hundred thousand volumes.

It will be seen, therefore, that judges must be men of great learning and integrity. Anything which tends to lower the learning or integrity of the judiciary is a direct blow at organized, stable government.

The Law of the State.—The state law may be divided into three classes: First, the constitutional law embodied in the state constitution, the highest law of the state. Second, the statutes of the state passed by the state legislature. Third, the common law or unwritten law.

It will be remembered that the states have not the power to make treaties and so have no treaty law. These three kinds of state law rank in the order in which they are mentioned above. The common law must not be contrary to any statute law of the state nor to the state constitution and the statutes must not be contrary to the state constitution, and we will here add that no state law,—constitutional, statute or common—can be contrary to the United States law, the supreme law of the land.

The Common Law.—The thoughtful student will readily understand that a legislative body cannot make laws to cover all the exigencies that may arise in the administration of government, and in the relations between

individuals. New questions constantly arise in social, civil and commercial affairs for which the keenest legislative foresight could not possibly provide. In England, therefore, whenever a case came before the courts to which the rules of the statute law would not apply, the court studied the point to be decided, by considering what had been the custom of the people in this regard heretofore and the case would be determined according to the prevailing custom and the principles of strict justice. By custom is meant this: suppose that in general in the coal mines of England miners labor eight hours a day. Under these conditions a miner is engaged to work for thirty days at two dollars per day. His employer, however, desires him to work ten hours each day which he refuses to do, but works eight hours a day for the thirty days and demands his sixty dollars wages. His employer claiming that he has not labored full time, deducts one-fifth from his wages for lost time and offers to pay him forty-eight dollars. If this case should be taken before a court it would be decided that eight hours was a day's work in the mines of England according to the custom prevailing among miners, which custom was so prevalent as to be a part of the common law of the land, and was therefore to have been understood as a part of the above contract. Cases in which customs did not exist, principles of justice were applied by the courts, and if a similar case should again arise it was usually decided in accordance with the former decision. Thus briefly, was formed that mass of principles and rules of law known as the common law of England.

As the colonies were subject to England the rules and principles of the common law were administered by our colonial courts, and when the states became independent nearly all of them adopted the common law of England along

with the English statute law then in force and the two became the common law of the states. Since this adoption the various states have changed by constitutional and statute law many of the features of the common law, and have added to it not a little by the decisions of the state courts. The common law has been defined as "the accumulated wisdom of the ages."

The common law is much more important than is often supposed. No case can arise to which its principles will not apply, and it has been estimated that fifteen thousand written decisions are being handed down by the higher courts of the states and the United States in this country alone every year.

It must be remembered, however, that this common law prevails only in the state. There is no common law of the United States, but the United States courts, as is observed elsewhere, are often called upon to apply state laws and consequently to apply the common law prevailing in the states.

The Supreme Court.—The supreme court consists of one chief justice and four associate justices elected by the qualified electors of the state, and they hold their office for a *term* of *ten years*.

They receive an annual salary of five thousand dollars.

Three of the justices constitute a quorum to hear any case, or transact any business which may come before the court. The justice who has been longest a continuous member of the court is *ex-officio* the supreme justice. In case there are two such, the one whose term first expires is the chief justice. They hold their office for so long a term (ten years) that they may be as independent as possible from the political influences of party leaders and not be

tempted to render decisions favorable to political friends or parties to increase the chances of re-election.

The chief justice is at the head of the court and acts as its chairman. Their terms of office are so arranged that the term of one justice expires and a new justice is elected to fill the position every two years on odd numbered years. The supreme court holds two terms of court a year, known as the January and the August terms of court. The sessions are held in the supreme court room in the capitol building at Madison. The court is usually so crowded with work that it may be said that it holds court continually, with short intermissions in which to write opinions on the cases, from August of one year until June of the next year.

Jurisdiction.—The supreme court has a general supervisory jurisdiction over all inferior courts of the state, in fact nearly all of its jurisdiction is of an appellate nature.

It hears appeals and writs of error from the circuit and certain municipal courts. By appellate jurisdiction is meant the hearing of cases which are brought up by appeal, or by a writ of error, from a lower court, which lower court has first tried the case and rendered its decision.

Original jurisdiction is the right to hear a case in the first instance without a previous trial in a lower court.

The supreme court has appellate jurisdiction only, except as to suits against the state and in the issuing of legal writs. The supreme court, then, is the court of last resort, the highest court of the state, from whose decision there is no appeal, except in the few cases which, because of their nature, may be appealed to the United States Supreme Court.

Original Writs.—Among the writs which the supreme court may issue originally are the common law writs of habeas corpus, mandamus, injunctions, quo warranto (war-ran'-to) and certiorari (cer'-ti-o-ra'-ri). The supreme court will not occupy its time with the issuing of these writs, except in cases of importance, but will send the applicant to the circuit courts.

Habeas Corpus.—The writ of habeas corpus (you may have the body) is the writ by which one who is illegally imprisoned or otherwise wrongfully deprived of his liberty, may be forthwith brought before a judge and given a hearing. The officer who has him in charge must show to the satisfaction of the judge that he detains the party legally, or the prisoner is given his liberty.

A party believing himself deprived of his liberty may himself, or by some friend or attorney, petition any supreme justice or the circuit judge of the circuit, or the county judge, or court commissioner for a writ of habeas corpus, and such judge is bound to issue the writ, unless the facts stated in the petition clearly show him not entitled to the writ. The writ commands the officer to bring the prisoner immediately before the judge and show by what authority and right he detains him. If the officer fails to show sufficient authority the prisoner is released, and cannot be retaken for the same cause until the proceedings before said judge have been reviewed and reversed by a higher appellate court.

Mandamus.—Mandamus is an original common law writ which may be issued by the supreme court or by the circuit courts.

It is made use of when there is no other adequate remedy, to compel a person or officer to perform an act which

it is clearly his positive duty to perform, as to compel the registrar of deeds to record a deed. Mandamus is a command of court.

Injunctions.—Injunctions, which in this state are not exactly the old common law writ of injunction, but are rather orders of court, are issued by the supreme court, circuit courts, county courts and court commissioners. An injunction is an order or writ which prevents one from doing an act which he threatens or is about to do without right, as where one is about to build a dam and cause water to flow upon or over his neighbor's land, he may be prevented from doing so by injunction.

Quo Warranto.—The writ of quo warranto (by what authority) is a writ which may be issued by the supreme or circuit court.

It is usually issued to some official who performs some act, or fills or usurps some public office without authority or without having been properly elected. The writ commands him to show what authority he has to perform the official act or to hold the office. If on the trial he can show no authority, he is restrained from performing the act, or is ousted from office, and the proper person given the office.

CHAPTER VI.

THE JUDICIAL DEPARTMENT—CONTINUED.

Certiorari.—The writ of certiorari is a common law writ, and is issued either by the supreme or circuit courts to inferior courts when proceeding in cases of which they have no jurisdiction, or when exceeding their proper jurisdiction. For instance, certiorari will be the proper remedy for one who is being sued in a court which has not the right to hear his case, as if it be a case to foreclose a mortgage on his farm, which farm is entirely within another county. He must be sued in the other county. And the writ of certiorari upon trial in the higher court will oust the lower court of jurisdiction.

The Writ of Error—Is a writ issued out of a superior court to an inferior court commanding that court to send up the record of the case to the superior court, where the case is reviewed and all errors made in the lower court corrected. It is a common law writ, and preserved to us by the constitution. However, it is not used much as our method of appeal from inferior courts to a higher court is a simpler method and used almost wholly.

Courts of Record.—A court of record is one in which all of its proceedings are conducted in writing, *i. e.* the plaintiff draws up his complaint in writing, the defendant answers the complaint in writing, and all other proceedings as notices, summons, judgments, etc., are drawn up in writing, each side having a copy, and a copy of each

paper is filed with the clerk of the court, which papers so filed make up the *record* in the case.

The supreme court, circuit courts, county courts, and municipal courts in many cases are courts of record, the pleadings in which must be in writing. In justice courts the proceedings are not in writing; each side is stated orally, and the justice merely keeps notes or minutes of what is done; this is not a court of record.

The Wisconsin Reports.—The supreme court, being the court of last resort in the state, practically decides what the common law of the state is, and also interprets the statute and constitutional law of the state. And it usually, in similar cases, follows its own decisions. It is therefore necessary that the decisions be known and copies of them obtainable. These decisions are, therefore, required to be written out by some one of the judges and, together with the facts and parts of the attorney's arguments in each case, are printed and bound in books, under the direction of the supreme court reporter. There are at the present time nearly one hundred volumes of these reports for the state of Wisconsin and several volumes are being added each year. All of the United States courts and the supreme courts of all the states have similar reports. These reports, together with text books on law, make up the lawyer's library.

The Circuit Courts.—The state is divided into seventeen parts, called circuits. Each circuit has one circuit judge who is elected by the qualified electors of the circuit for a term of six years, and must reside within the circuit. A circuit is usually made up of several counties, and as court is held in each county at least twice a year, the circuit judge goes from county to county holding

STATE HISTORICAL SOCIETY, MADISON.

JUDICIAL CIRCUITS
OF
WISCONSIN
with Population U.S. Census of 1890
DOUGLAS 13,468
BAYFIELD 7,390
ASHLAND 12,777
IRON 7,391
VILAS 1,390
FLORENCE 2,604
BURNETT 4,393
WASHBURN 2,926
11
SAWYER 1,977
15
PRICE 5,258
ONEIDA 3,575
FOREST 1,012
POLK 12,908
BARRON 15,416
CHIPPEWA 25,143
TAYLOR 6,731
16
LINCOLN 12,008
LANGLADE 9,465
10
MARINETTE 20,304
ST. CROIX 23,139
DUNN 22,604
MARATHON 30,369
SHAWANO 18,236
OCONTO 15,009
14
DOOR 15,682
PIERCE 20,385
8
PEPIN 6,832
EAU CLAIRE 30,673
CLARK 12,708
17
KEWAUNEE 16,153
BUFFALO 15,997
TREMPEALEAU 18,520
JACKSON 15,797
WOOD 18,127
PORTAGE 27,298
7
WAUPACA 26,794
OUTAGAMIE 38,600
BROWN 30,164
MANITOWOC 37,831
WAUSHARA 13,507
WINNEBAGO 50,097
3
CALUMET 16,538
LA CROSSE 38,501
MONROE 23,211
6
JUNEAU 17,121
ADAMS 6,459
MARQUETTE 9,676
GREEN LAKE 15,163
FOND DU LAC 44,088
4
SHEBOYGAN 42,489
VERNON 25,111
RICHLAND 19,121
SAUK 30,575
9
COLUMBIA 28,350
DODGE 44,844
13
WASHINGTON 22,751
OZAUKEE 14,993
CRAWFORD 15,987
DANE 59,578
JEFFERSON 33,530
WAUKESHA 33,270
MILWAUKEE 2
GRANT 36,651
5
IOWA 22,117
LA FAYETTE 20,265
GREEN 22,732
12
ROCK 43,220
WALWORTH 27,860
1
RACINE 36,268
KENOSHA 15,581

court, and thus makes a circuit of the counties in his jurisdiction. Hence the name, circuit court. The circuit judges receive an annual salary of three thousand six hundred dollars, and four hundred dollars for traveling expenses.

Jurisdiction.—The circuit court is a court of general jurisdiction. It has authority to try all cases which arise within its territorial limits except actions against the state, which are tried only in the supreme court. Nearly all of the important litigation is in the circuit court originally and may be appealed from this to the supreme court. The circuit court has general supervision over all inferior courts and hears appeals from, and issues writs of mandamus and certiorari to county, municipal and justice courts, and may issue all other writs necessary to carry into effect its judgments, orders, decrees, etc.

Vacancies and Elections.—Vacancies in the supreme or circuit courts may happen by the death or resignation of the justice or judge, by removal from state or circuit, by impeachment, or by his accepting any other office. Vacancies are filled by appointment by the governor for the supreme and circuit courts, such appointees to hold until the office is filled by an election.

It is the theory of both our state and national governments that the judiciary should be as free as possible from political influences. Our liberties are wrecked when once our judges become corrupt. The judiciary must be kept pure, regardless of all else.

For this reason the terms of our higher judicial officers are longer than the terms of other state officers, that judges may not be tempted to favor parties to assist in their re-election. Judicial elections cannot be held for supreme

and circuit judges at the same time that other state officers are elected, nor within thirty days before or after such general election. This removes the judiciary from party influences and corrupt political practices almost completely, and has served to give us an almost ideal corps of judges.

Our judicial elections are, therefore, held on the first Tuesday of April after a vacancy, or on the first Tuesday of April next previous to the expiration of a judicial term of office. The term of office begins on the first Monday of January next after their election for both supreme and circuit judges. If elected to fill a vacancy, the supreme justice takes his office the first day of the term next succeeding his election, and the circuit judge on the first Monday of June following his election.

Qualifications.—A judge must be a citizen of the United States, twenty-five years of age, and be a qualified elector of the district for which he is elected.

No circuit or supreme judge is allowed to receive any other compensation or fee than the regular salary allowed by law. He can hold no other than a judicial office during the time for which he is elected, nor can he ever be a candidate for any other than a judicial office, and votes cast for him for any other office are void.

The idea is that judges should not interest themselves in general elections. Their whole time should be devoted to the cases brought before them, and their whole duty should be to render strict and impartial justice between those who may appear in court.

Removal by Address.—The judges of the supreme and circuit courts are given a great deal of power under our system of government. They control the most important affairs between man and man; they even decide

what are the powers of the various departments of government, and interpret the constitution and the laws passed by the legislature.

They may, and of right do, go so far as to determine their own powers and duties.

Such being the case, there is great necessity for some means of holding them to account for a strict performance of their duty according to the laws prescribed in the constitution and the statutes.

They may be impeached the same as other state officers by the assembly and tried by the senate, but in the case of judges there is a shorter and more summary remedy, known as removal by address.

The judge to be so removed is served with a copy of the charges made against him by the legislature, and is allowed a hearing in his defense, after which, by a two-thirds vote of all the members of each house, his removal is ordered. The order would probably be addressed to the governor as the executive officer, who executes the order removing the judge, and appoints another to fill the vacancy so caused.

This severe measure has never yet been resorted to, and this speaks well for the integrity of our judiciary, but it is a remedy available in case of necessity, and no doubt is a wholesome check.

County and Probate Courts.—In each county of the state there is established a county court, which has the jurisdiction of the probate courts spoken of in the constitution.

These county courts are courts of record, and are presided over by a county judge elected by the qualified electors of the county at the regular spring or judicial election held on the first Tuesday in April, for a term of four years.

The salaries of county judges vary in the different counties. The regular term of office begins on the first Monday in January following the election.

Vacancies are filled by appointment by the governor, and the appointee holds for the unexpired term. As county judges are intrusted with funds and valuable papers of various parties who appear in their courts, they are required to take the constitutional oath of office and give a bond in the sum of three thousand dollars.

Jurisdiction.—All county courts have general probate jurisdiction, such as the probate of wills, settlement of the estates of deceased persons, and appointment of guardians for infants, insane and other persons incompetent to manage their own property.

In addition to the above some county courts have been given jurisdiction of a minor class of cases of both a civil and a criminal nature.

The powers of county courts vary, and as they are courts of limited jurisdiction, they have no jurisdiction but such as is given them by statute.

Many of them may hear appeals from justice courts, and from some county courts an appeal may be taken direct to the supreme court, but appeals from most of the county courts must be to the circuit court.

Justice Courts.—In each township of the state at the spring election there are elected annually two justices of the peace who hold their office for two years. By this arrangement, it will readily be seen, each township has four justices of the peace. They hold their office within the township but have jurisdiction, territorially, throughout the county. These are pre-eminently the people's courts, no lawyers are necessary, and the proceedings are as simple as possible.

The justice receives no salary, but charges certain fees in each case.

Their term of office begins on the first Monday in May next after their election.

Vacancies may be filled by a special election or by a temporary appointment by the town board.

Jurisdiction.—In general, justices of the peace have jurisdiction of civil cases involving two hundred dollars or under, and of the lesser criminal offenses.

In case of the graver crimes the justice may conduct a preliminary examination and if he sees fit bind the accused over to appear at a higher court by requiring him to give a bond or be sent to jail to await trial.

State Courts.—Territorially considered, it will be noticed that the supreme court has jurisdiction throughout the state; circuit courts throughout the circuit; county courts throughout the county, and that justice courts, although having jurisdiction throughout the county, also are the courts of the township.

Nevertheless, all of the above courts are state courts, organized by state law to enforce the general laws for the benefit of the whole state. They are not mere local institutions, but are agents of the state as a whole. Municipal courts and police courts are more of local institutions, being a part of the municipal government of cities and incorporated villages.

Arbitration and Award.—The constitution, going upon the theory that litigation is a necessary evil to be avoided if possible, authorized the legislature to establish tribunals of conciliation in every township of the state, the idea being that in such a tribunal, or board, real justice

would be done both parties without the formalities of law and the expense of protracted law suits.

The legislature has failed, so far, to establish such tribunals, but it has enacted laws prescribing the methods by which parties may submit their differences to one or more impartial persons who shall make an award as to the the rights of the parties, which answers the same purpose as the tribunal of conciliation contemplated in the constitution.

Criminal and Civil Actions.—Actions or suits may be divided into two general classes, criminal and civil. A crime is an offense committed against the state and the prosecution in a court for such an offense is a criminal action.

A civil action is one brought to enforce a property claim or right, such as to collect a debt. If a person commits a battery upon you, both of these actions may be brought against him; first, he may be sued by the state in a criminal action for disturbing the peace and if convicted, be fined or imprisoned. Second, you may sue him in a civil action to recover the damages you suffered by being bruised and battered and get judgment against him for twenty dollars, or whatever damages you may be able to prove you have suffered.

All legal papers, writs and processes run in the name and by the authority of the state of Wisconsin, and in criminal actions the state has a special officer, the district attorney, who prosecutes the accused in the name of the state.

The Publication of the Laws.—It is one of the theories of all modern governments that every person subject to the law knows the law, or, in other words, igno-

rance of the law is no excuse. That this may not be so harsh a rule it is required that all laws must be published before they take effect. Our laws are published in nearly all the newspapers of the state and in bound volumes known as the session laws.

The rule spoken of above is necessary, otherwise the worst criminal would plead his ignorance of the law and escape free from punishment. All people do not know the law, however, and therefore it is quite necessary in many cases to have the assistance of a lawyer, which right is given every party to any suit in this state. One has however the right to defend or prosecute his own suit in any court in the state in person.

The Code.—It will be remembered that we have adopted the common law of England along with which has developed a system of procedure, or a method of conducting affairs in court, which is both very technical and cumbersome. All of its forms are long, and each kind of action has a different prescribed set of forms by which it must be conducted in court.

Many of the states of the Union, Wisconsin among them, have adopted a procedure of their own, prescribing the methods of commencing and conducting the various actions in court by a simple, uniform system, easily understood and without unnecessary technicalities. This is known as our code, or code of procedure.

Court Commissioners.—There are many duties of a judge which may be done out of court, at chambers, as it is called, during vacation when the court is not convened, such as granting motions, making orders, hearing testimony, etc. As the circuit judge is often in some other county of his circuit, many miles away, it is convenient to

have some one in the county who is authorized to perform these simple duties of a judge at chambers. It is therefore provided that each circuit judge may appoint five court commissioners in each county of his circuit, each one of whom has nearly the same authority as a judge out of court. The court commissioners are usually lawyers and are authorized to issue subpœnas, take testimony (depositions), issue attachments and other processes, administer oaths and do many other similar duties. They are compensated for what they do by certain prescribed fees fixed by law. County judges are also given the powers of a court commissioner.

OUTLINE REVIEW OF JUDICIAL DEPARTMENT.*

NAME OF COURTS.	NUMBER OF	NUMBER OF JUDGES IN EACH.	APPELLATE OR TRIAL COURT.	WHERE HELD.
Supreme Court.....				
Circuit Courts.....				
County Courts.....				
Justice Courts.....				

* There are other inferior courts, as Police Justice and Municipal courts, established by statute in some of the cities of the state.

CHAPTER VII.

COUNTY AND TOWN GOVERNMENTS.

Corporations.—A corporation is an association of persons organized in pursuance of law, with a given name and a fixed place of business. It is a sort of artificial person existing, in contemplation of law, as a separate individual from those who are its members.

It acts in many respects as a single individual.

Private corporations are formed for purposes of business and have a capital stock; or else for social, educational or charitable purposes, when they need have no capital stock.

Public corporations include incorporated villages and cities, and also counties, towns and school districts, and of course states and in a sense, the nation also.

The term municipal corporation is more properly applied to incorporated villages and cities. These are incorporated at their own solicitation and for local purposes, and not as mere assistants in the general state government. "Municipal corporation," therefore designates merely a village or city corporation.

Counties, towns and school districts are not, properly speaking, municipal corporations.

All of these corporations are organized in pursuance of law, and have no powers but those granted to them expressly, or those essential to accomplish the objects for which the corporation was established.

Private corporations, and also villages and cities, are

given charters as evidence of their corporate existence and these charters recite the name, purposes and powers of the corporation.

Counties, towns and school districts have no charters given them, and have no powers but those especially or impliedly granted to them by the laws of the state, but they are especially declared by statute to be bodies corporate.

Relation to the State.—Primarily all the powers of government within the state have been vested by the constitution in the state government, but the legislature is authorized to bestow upon the various subdivisions of the state certain powers.

For the mere convenience of the state, therefore, and not for any particular local interest, the state is subdivided into counties and the counties are again subdivided into towns.

In each of these civil or political subdivisions of the state is established a county or a town system of government which acts subordinate to and in conjunction with the state government of which it is really a part.

The government within the town and county, therefore, cannot be considered as a separate government, and in no sense is it independent of the state government. On the contrary the county, and town, their offices and rights are creatures of the state legislature. Their organization and their property are at the disposition of the state. The legislature may reform the county government at any time, and it may order the disposition and creation of county funds as it chooses, if not in violation of the constitution.

County and Town Officials.—The relation of the town and county governments to the state is more clearly

seen by a study of the several offices. The justice of the peace is a town officer; the county judge, and in a sense, the circuit judge are county officers, but none of these have any absolute powers in themselves nor any derived from the county or town. All of their powers come from the state.

The decision of the justice of the peace is not final, but is under the supervision of the circuit judge or court, which court may rehear the case and reverse or approve the decision of the justice. In the same way the decision of the circuit court is not final, but that court is under the supervision of the supreme court of the state.

Again, the district attorney of the county prosecutes all criminals for the state, within his county, but upon appeal of these cases to the supreme court, the attorney general argues the case before the supreme court. In short, it may be said, then, that the county and town officers perform the duties of the various state officers within the town and county, as for instance, the town treasurer collects the town, county and state taxes levied within his town, and pays all except the town tax over to the county treasurer, and the latter pays over the state tax to the state treasurer.

The town and county clerks in a slight degree act in conjunction with the state clerk called the secretary of state. And so we might compare other officers with similar results.

However, the town and county officers do not derive their powers from, nor act under the direction of, the general state officers, but all of the duties and authority are prescribed by statutes passed by the legislature, as are also the duties of the state officers at Madison.

The town and county officers are not subordinate to

the state officers in any degree, yet they are, in a sense their assistants.

Uniform System.—The constitution provides that the legislature may establish but one system of town and county government, which system must be as nearly uniform as practicable. Accordingly all of the counties of the state are organized as nearly as practicable in the same way, and the same is true of the towns. This insures to each town or county equal methods of government with all of the other towns or counties of the state. No discriminations can be made in favor of one over the others.

The County Seat.—The county seat is the place within the county at which the county government is conducted. It is the capitol of the county. The county usually has a suitable building constructed at the expense of the county in which are the offices of the various county officials. This is the county house, or court house, in which the county board meets, and here are held also the county and the circuit courts.

The location of the county seat may be fixed originally by the legislature upon the creation of the county. If not so fixed the county board for the county, at its first meeting, must locate the county seat which can only be changed thereafter by a vote of the people of the county. In addition to the court house each county must have at the county seat a jail for the retention of prisoners, and is liable for the escape of any prisoner because of the inefficiency of the jail.

For the erection of these and other county buildings the county is allowed to borrow money and issue its bonds as security for its loan, but a sufficient tax must be annually assessed and collected to pay the debt as it becomes due.

The County Board of Supervisors.—The county board of supervisors is made up of representatives from each town, city or incorporated village within the county.

The chairman of the town board of each town in the county is *ex-officio* a member of the county board. Each incorporated village or city within the county has a representative from every ward, or part thereof, to represent its interests on the county board.

The number of members of the county board, therefore, varies in the various counties according to the number of towns and wards or parts of wards in the county.

Those members of the county board who represent cities and incorporated villages are elected annually by the electors of the wards at the time of election of city or village officers.

They receive as compensation three dollars per day not exceeding fifteen days (twenty days in counties having over 15,000 population) for every day in actual attendance and six cents mileage and extra pay for committee work.

Methods.—The county board meets annually on the Tuesday after the second Monday in November. Special meetings may be called by a majority of the members. A majority of the members of the board constitute a quorum to do business.

The meetings of the county board are open to the public and their proceedings are also published in some newspaper in the county. At their first meeting they select one of their number to be their chairman who presides over their meetings, appoints committees and performs other duties devolving upon him.

Powers and Duties.—The county board is authorized (1) to make such disposition of the county property as they deem proper, either to sell, purchase, or repair the

same; (2) to examine and settle all accounts of the receipts and expenses of the county; (3) to examine and settle all claims against the county and if allowed may issue orders for their payment; (4) to build and keep in repair all county buildings or provide suitable rooms for county purposes; (5) to insure county buildings; (6) to apportion and levy all taxes; (7) to make out jury lists; (8) to fix the salaries of county officers.

In addition to the above the board has certain powers regarding; (1) the organizing and changing the boundary lines of towns; (2) the control of state roads; (3) the allowance of bounties for the destruction of injurious animals as wolves, wild-cats and lynxes; (4) the changing of the names of towns, villages, or persons; (5) the granting of charters for the maintenance of toll bridges and roads and ferries. They also represent the county in the care of its property, and the management of its business in all cases not otherwise provided for.

County Officers.—The officers of the county are the sheriff, clerk of the circuit court, register of deeds, county treasurer, county clerk, county superintendent of schools, coroner, district attorney, and county surveyor. The first five of these must have their offices at the county seat and keep the same open during the usual business hours of each week day.

All of the above officers are elected for a term of two years, at the general election for state officers, and take their office on the first Monday of January next after their election. Each of them is required to take the oath of office and the same requirement is demanded of their deputies, if they have any.

The county judge may also be considered a county officer.

CHAPTER VIII.

COUNTY AND TOWN GOVERNMENTS.—CONTINUED.

County Superintendent.—There is one superintendent of schools for each county, but in counties of over fifteen thousand inhabitants the county board may divide the county into two districts, when there must be one county superintendent for each district.

The jurisdiction of the superintendent extends throughout his county or district, but every city having a board or officer vested with the power of superintending the schools and examining and licensing teachers is exempt from the jurisdiction of the county superintendent.

The county superintendent receives a salary, the amount of which is fixed by the county board. If for any reason the office should become vacant, the state superintendent of public instruction appoints a county superintendent to serve for the remainder of the term.

The superintendent has general supervision and visiting powers over the schools within his county or district, and examines and licenses teachers to teach therein. He is required to give a bond as security for the funds and property which come into his hands.

The County Clerk.—The county clerk is the secretary or clerk of the county board, and attends all its meetings and keeps a record of all its proceedings. He has his office at the county seat, and in general keeps all accounts of the county. He draws and signs all warrants upon the

NORMAL SCHOOL, WEST SUPERIOR.

county treasurer authorized by the board, and keeps on file in his office all papers left with him to be submitted to the county board at its next meeting. His salary is fixed by the county board. He may appoint a deputy, who holds his office subject to the will of the clerk, who may perform any or all of the duties of the office during the absence or disability of the clerk.

In case of a vacancy the county board may appoint some person to fill the office for the remainder of the term. The county clerk gives a bond of two thousand dollars.

County Treasurer.—The county treasurer is the custodian of all county funds. He receives all moneys belonging to the county from whatever source derived. He pays out county money only on the orders or warrants authorized by the county board, issued and signed by the clerk and countersigned by the chairman of the county board. He must keep a true and accurate account of all funds which come into his hands, or which are paid out by him by virtue of his office. He receives the amount of the state tax from the town treasurers, and pays the same over to the state treasurer, and performs various other duties prescribed by law.

The county treasurer must give a bond in an amount double the amount of the taxes receivable by him for the year. His salary is fixed by the county board.

In case of a vacancy in his office the county board may fill the same by appointment for the remainder of the term.

Sheriff.—The office of sheriff is one of the most responsible of the county offices, for which reason he is required to give a large bond of not less than five thousand nor more than twenty-five thousand dollars. The sheriff is liable on his bond for the faithful performance of the

duties of his office, not only to the county but also to the private individuals whom he serves in legal matters pertaining to his office. The sheriff appoints to assist him in his duties an under-sheriff, and also such deputies as he may need, who hold their offices subject to his will, and of whom he may require a bond. The sheriff is liable for the acts of his deputies or under-sheriffs.

In case of a vacancy the governor may fill the same by appointment to serve for the remainder of the term.

It is the duty of the sheriff to have in charge the jail of his county, and keep in custody all persons therein or committed thereto, and a register of such persons, giving their names, description, etc.; to attend upon the circuit court of his county whenever in session; to serve or execute according to law all writs, processes, precepts and orders properly made and to him directed. It is furthermore the duty of the sheriff to keep the peace within his county and to suppress all riots or other disturbances therein, and if necessary may call to his aid such persons of the county as he may deem proper. Those called to his aid to assist him in keeping the peace are called the sheriff's posse. Persons so called are bound to assist him.

The sheriff is disqualified to succeed himself in office, probably that he may not be tempted to use his office to aid in his re-election. The sheriff and his deputies are disqualified to act as attorney or give any legal advice.

His compensation consists of fees prescribed by law for the various duties which he performs.

Coroner.—The coroner is required to give a bond of at least five hundred and not more than ten thousand dollars.

Whenever the sheriff is a party to an action, or whenever the sheriff is deemed by a party to an action to be

prejudiced or untrustworthy, or whenever there shall be no sheriff or under-sheriff, the coroner acts as or performs the duties of sheriff.

Coroners also inquire into the causes of death and hold inquests over the bodies of dead persons when the circumstances of the death are unusual and suggest crime in regard thereto. However, the inquests in this state are usually held by justices of the peace. For this reason the office of coroner in counties of small population is not very important, although an office created by the constitution, and a vacancy in which may be filled by appointment by the governor.

Clerk of the Circuit Court.—The clerk of the circuit court is required to give a bond of not less than five thousand dollars. The clerk is allowed a deputy to assist him or perform the duties of the office during his absence.

It is the duty of the clerk to keep a record of all the proceedings of the circuit court of his county; to keep a list and account of all witnesses, jurors and interpreters, sheriff and deputies, and the amounts due the same for attendance at the court. He keeps on file in his office the various papers and pleadings of causes and proceedings in the circuit court, which may be filed in his office.

No clerk can act as a justice of the peace, nor as an attorney in the court for which he is clerk during his term of office. His compensation is by way of fees allowed and prescribed by law for the various duties which he performs. Vacancies in his office are filled by appointment by the circuit judge.

District Attorney.—The district attorney is required to give a bond of one thousand dollars. The salary of this office is fixed by the county board, and all fees or

money received in the course of his duties must be paid into the county treasury. In case of a vacancy, the office is filled by an appointment by the governor to serve for the unexpired term.

It is the duty of the district attorney to prosecute or defend all suits, both civil and criminal, in the circuit court of his county in which the state or county is a party or interested (if such suits are appealed to the supreme court the attorney general of the state acts as the attorney). He is also required to prosecute all criminal cases in his county before any court desiring his services, and to conduct all criminal examinations before any magistrate.

He must give legal advice to the county board and other county officers, when requested to do so, regarding matters pertaining to their official duties, and appear as prosecuting attorney and legal adviser before the grand jury.

Register of Deeds.—The register of deeds gives a bond of three thousand dollars. He is allowed one or more deputies to assist him in the duties of his office, and receives his compensation by means of fees charged for services performed. The governor, by appointment, for the unexpired term, fills any vacancy which may occur in this office.

The register of deeds is required to record in suitable books in his office all deeds, mortgages, maps, instruments and writings which by law are required to be, or may be recorded; to register all marriages, deaths and births in his county, as required by law; to make a correct copy, duly authenticated, of any deed, map or record whatsoever recorded in his office, upon demand of any one desiring the same, upon payment of the prescribed fee.

County Surveyor.—The county surveyor is required to give a bond in the sum of one thousand dollars. He is compensated for the work which he performs by fees prescribed by law. In case of a vacancy in his office the county board may appoint some one to fill the vacancy for the remainder of the term.

He is required to make any surveys ordered to be taken by the court, or desired by individuals or corporations; to make a record of the plat and notes of all surveys made by him and keep the same in his office for public inspection; to furnish a copy of any plat, record or survey to any one desiring the same, upon payment of the prescribed fee.

General Observations.—As we have treated of the office of county judge under the heading of the judicial department of the state government, it is omitted here. The constitution especially provides for the offices of sheriff, coroner, register of deeds and district attorney, as well as for that of county superintendent, which accounts for such offices being filled, whenever a vacancy in them occurs, by appointment by the governor, or, as in case of superintendent of schools, by the state superintendent, while the remaining county offices, being created by statute, are filled, when a vacancy occurs, by appointment by the board of supervisors of the county, except that of clerk of the circuit court, filled by appointment by the circuit judge.

OUTLINE REVIEW OF THE COUNTY OFFICERS.

OFFICERS.	PRESENT INCUMBENT.	TERM.	SALARY.	HOW CHOSEN.	WHEN CHOSEN.	BOND.	DUTIES.
County Board of Supervisors							
Sheriff							
Clerk of Circuit Court							
Register of Deeds							
County Treasurer							
County Clerk							
Superintendent of Schools							
Coroner							
District Attorney							
County Surveyor							

CHAPTER IX.

COUNTY AND TOWN GOVERNMENTS—CONTINUED.

The Town.—As we have seen, the town is one of the subdivisions of the county. It is the primary, the first, political or civil organization of the people. Next above the town, is the county organization, and above the county is the state, and above the state, the nation.

But the town, as well as the county, is not a separate organization from the state but is rather a part of the state system of government.

The town is not organized directly for its own benefit, but principally as an aid to state government.

Like the county, the town is a body corporate, but the purposes of this corporation are not manufacture, nor business of any kind other than governmental.

Town Meetings.—The government of the town is quite democratic in form, for here we have an assembly of the people (electors) once each year, at least, in what is known as the annual town meeting, at which the electors sit in a body as a sort of legislature or law-makers for the town to the extent allowed by law.

This annual town meeting is held in the town hall in each town on the first Tuesday of April of each year.

The chairman of the town board of supervisors presides as chairman of the meeting and the board of supervisors act as inspectors of the election at the town meeting.

The town clerk acts as clerk of the meeting and is required to keep accurate minutes of all its proceedings.

Special town meetings may be called at any time, by the town clerk, upon the application of twelve of the electors of the town, for the election of officers to fill vacancies, or the transaction of any business which might be done at an annual meeting.

Powers of Town Meeting.—At the town meeting are elected, by ballot, the various town officers, including the chairman and two associate members of the town board, the town clerk, the town treasurer, also the assessor, justices of the peace and constables.

In addition to holding the town election the meeting is a sort of legislative body for the town, and is authorized to enact laws upon certain subjects under certain limitations for the government of the town.

The town meeting may authorize the raising of money for the repair and building of roads and bridges, for the support of the poor, and for other proper charges and expenses of the town. It may direct the prosecution or defense of any law suit to which the town is a party, and may employ attorneys for the purpose. It may pass such laws as are deemed proper for the restraint of drunkenness or disorderly conduct of any kind within the town.

The town meeting may direct the settlement or compromise of any debt, legal claim or suit against the town and may authorize the town board to issue the bonds of the town to raise funds for any legal purpose; or to sell any property of the town which can lawfully be sold; or to purchase suitable grounds for cemetery purposes, or to do various other things of a similar nature.

Some of the measures voted on at the town meeting

must be voted for by ballot, but the most of the business at the meeting may be voted on by acclamation.

The qualified electors of the town make up the town meeting.

Town Officers.—The town officers are the town board, consisting of the chairman of the town board and two supervisors, the town clerk, treasurer, assessor (either one, two or three as the town board may have ordered), four justices of the peace and constables.

All of the town officers are required to be electors of the town, and no one person can hold the office of treasurer and assessor at the same time.

The above officers are elected at the annual town meeting by ballot. Their terms of office are for one year, except the terms of office of the town board for Milwaukee County, which are for two years; and the terms of office of the justices of the peace who hold their offices for two years, two being elected each year. If the town has a town library there may be elected a town librarian.

Should a vacancy occur in any town office the town board may make an appointment to fill the vacancy for the unexpired term, but in case of a vacancy in a justice's office the appointee of the town board acts as justice only until the office may be filled at the next election. Should a vacancy occur in the town board the remainder of the board together with the town clerk make an appointment to fill the same.

The town officers receive a reasonable compensation for the services which they perform. Justices of the peace are compensated by fees; the treasurer by a per cent of the amount of tax collected; the constable, by fees; the others by amounts allowed by the town board or the annual town meeting.

The Town Board.—The supervisors of each town constitute the town board, consisting of the chairman and two associate members, any two of the board constitute a quorum to do business.

Speaking generally, they are authorized to carry into effect any measures enacted at the town meeting.

They have charge of all the affairs of the town not by law committed to other officers.

They draw all orders upon the town treasury for all expenditures, other than those for schools, and have charge of all law suits to which the town is a party, and enforce all contracts, penalties and forfeitures accruing to the town.

They also act as the board of audit and as such board meet twice a year, on the Tuesday next preceding the annual town meeting, and on the first Tuesday in December, and examine and settle all accounts against the town and examine the accounts of each town officer.

The town board may appoint policemen and a night-watchman for any unincorporated village in the town having a population of three hundred or over and may make any reasonable regulations and by-laws they may deem proper for the prevention of disorderly conduct.

Town Clerk.—The town clerk acts as clerk or secretary, at all town meetings, and keeps a faithful record of all the proceedings.

He also acts as clerk of the town board, and keeps a record of all their proceedings. He has in custody all bonds, oaths of office, chattel morgtages, records, etc., filed in his office as required by law, which may be examined by the public, and copies of the same made and taken.

Town Treasurer.—The town treasurer is required to give a bond equal to the estimated amount of money that will come into his hands.

He is required to receive and care for all moneys belonging to the town, or which are paid into the town treasury, and to pay the same out only upon the order of the town; to keep an accurate account of all moneys received and paid out by him as treasurer; to collect all taxes and make proper return thereof, and to do various other duties of a similar nature.

Constables.—The constables are the ministerial officers of the justices of the peace. They are required to serve all writs, processes, orders or notices and execute any order, warrant or execution of any court or officer; to cause to be prosecuted all violations of law of which they have knowledge or information. The constable has authority to arrest all persons whom he knows, or has cause to believe, to be violating the laws of the state or disturbing the peace. He is the peace officer of the town.

Justices of the Peace.—We have already treated of the duties of justices of the peace under the subject of the state judiciary. He is the judicial officer of the town and is empowered to maintain peace and order.

Cases of arrests for disorderly conduct are heard before a justice of the peace as soon as conveniently may be. The justice is elected for a term of two years and holds his office until his successor is elected and qualified.

Assessors.—Assessors are elected at each annual town meeting one, two, or three in number according to the determination of the town board.

The assessor assesses or ascertains the amount and value of property within his district, subject to taxation and the party against whom the tax is to be charged.

OUTLINE FOR THE REVIEW OF TOWN OFFICERS.

OFFICERS.	PRESENT INCUMBENT.	SALARY.	TERM.	BOND.	HOW CHOSEN.	WHEN CHOSEN.	DUTIES
Chairman of Town Board...							
Supervisors (2).....							
Town Clerk.....							
Treasurer.....							
Assessor (1, 2 or 3).....							
Justices of the Peace (4)....							
Constables (1, 2 or 3).....							

CHAPTER X.

MUNICIPAL GOVERNMENT.

Municipalities.—The term municipality should be used only in reference to villages and cities, and in that sense we shall use it, although it is often used by careless writers to denote any division of the local government, even a town or county.

Village and city government is the subject herein treated. A hamlet of only a few households becomes a village or a city, commonly speaking, by an increase of its inhabitants. A densely populated district is one of the essentials of a city.

In these districts where so many people gather and establish their homes, manufactories, and business institutions, there develop needs unknown to the country in general.

The people for the preservation of health demand extensive sewers, efficient health officers, health regulations for the prevention of contagious diseases. For the preservation of the peace the people demand certain laws to regulate conduct within the city, to regulate and control the saloons, gaming houses, circuses and parades. The city also needs a sufficient number of policemen to preserve order and enforce these special rules.

For the convenience of the people in general they demand improved streets and sidewalks; street railways, electric and gas lights, telegraph and telephone facilities

and other conveniences now considered absolute essentials in the cities but which are not practicable in the country districts.

The state at large, then, is not interested in these local demands of the villages and cities. They in no way add to the efficiency of the state government but are necessary for the villages and cities only.

Villages and cities are, like counties and towns, aids to state government, in that they perform all the functions of local government and ensure the enforcement of state laws as do towns and counties but in addition they have many powers and duties not given to towns and counties, as the above instances illustrate.

Incorporation.—That the people of a village or city may have the right to pave their streets, build street car lines, and acquire and establish other such conveniences, it is necessary for them to be granted this right by the legislature on behalf of the state, for otherwise they would be only a part of a town with no more rights or privileges than a town has. These villages and cities, therefore, have had the legislature grant them charters which establishes a sort of local self-government for each village or city independent of the town in which it is located. These charters also give them the rights above noted so essential to city government. The obtaining of these charters is their incorporation.

Charters.—The most of the villages and cities of the state have been incorporated at different times by special acts of the legislature. Consequently, their charters differ very much in the details and it would be impracticable to here give more than an outline of what the charters usually prescribe as the powers, duties and rights of the village and city governments.

The charters usually designate the officers to be elected in a village or city and their duties, prescribing in outline the general plan of the local government. To each city or village are also delegated certain legislative powers, as the right to prescribe police regulations for the perservation of the peace and good order of the community, the right to pass ordinances granting franchises to street car, waterworks, telephone, gas and other similar companies, providing for the establishment of such conveniences for the benefit of the people.

But an amendment to the constitution in 1871 prohibited the granting of special charters or amendments thereto for villages, and in 1892 another amendment was passed placing a similar prohibition upon special charters and amendments thereto for cities. Previous to these dates however, all of the villages (1871) and cities (1892) were incorporated by special charters, which charters remain in full force unless voluntarily abandoned by the city or village.

At the time of the above amendments to the constitution, there were passed general laws providing for the incorporation of villages and cities under a uniform government. All villages hereafter incorporated must be incorporated under the general law providing for the incorporation and government of villages, and all cities hereafter incorporated must be incorporated under the general law providing for the incorporation and government of cities. These general laws consider a community having a population of from three hundred to two thousand a village, and communities of a greater population than two thousand are ranked as cities.

Villages and cities formerly incorporated under special charters may, if they desire, surrender their charters and adopt the government provided by these general laws.

The governments of the various villages and cities of the state are quite similar, although the most of them are organized under special charters, and the remainder under the general laws. As the government of the villages is so much like the government of the cities, and as all which are organized under a special charter differ from each other in some slight degree, it will be sufficient to here merely outline the general plan of these governments. It should be considered in this connection, however, that the larger the city, as a rule, the more elaborate is its government, the more numerous are its officers and the more extensive are the powers granted to it.

Officers.—The elective officers of a city are usually a mayor, one or more aldermen from each ward, a city treasurer, a city clerk, an assessor, one or more justices of the peace, a police justice, and a supervisor from each ward to represent the ward on the county board.

In addition to the above there are usually appointed by the common council a city marshal, a street commissioner, a city attorney, a city surveyor, and sometimes various other inferior officers.

The Common Council.—The common council is the legislative body of the city, and is made up of the aldermen from each ward and the mayor as presiding officer.

This body meets at stated times and enacts by-laws and regulations for the government of the city, not contrary to the laws of the state and within the powers granted them by the city charter. These city laws are usually called ordinances. The appointive officers are chosen and appointments to fill vacancies are usually made by this body.

The common council usually is empowered to enact

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ordinances for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime and for the benefit of trade, commerce and health. With these powers are the ones to lay out and improve the streets; to lay sidewalks; to grant street railway, waterworks, telephone and telegraph franchises to persons or companies to operate the same within the city; to construct sewers; to establish a fire department and equip the same; to license peddlers, circuses, shows, theaters; to construct public buildings; to care for the poor; to purchase tracts of land and improve the same for public parks; and numerous others of a kindred nature.

The Mayor.—The mayor is the presiding officer of the common council and the chief executive of the city. It is his duty to see that the other officers perform their duties properly, and to enforce the ordinances of the city and the laws of the state. He is the head of the police and fire departments, and is supposed to superintend the city government in general.

The City Clerk.—It is the duty of the city clerk to attend all meetings of the common council, to keep accurate minutes of its proceedings and to keep a record of various other official matters connected with the city government.

The City Attorney.—The city attorney conducts all the law business of the city and of the various departments thereof and gives legal advice to the various city officials, concerning official matters when requested to do so.

The City Treasurer.—The city treasurer collects all city, county and state taxes within the city, keeps an accurate account of the financial matters of the city, receives

and has the custody of all money paid to or belonging to the city, and pays the same out upon orders issued by the common council.

The Justices of the Peace and Police Justice.—The duties of the justice of the peace of a city are the same as those of a town. The police justice, when there is one, usually has exclusive jurisdiction of all offenses against the ordinances of the city and also the general jurisdiction of a justice of the peace throughout the county. In case there is no police justice a justice of the peace may have jurisdiction of offenses against the city ordinances.

In the larger cities of the state there is often established a municipal court presided over by a municipal judge, who may be given by the legislature jurisdiction equal to or less than that of the circuit court of the county.

Other Officers.—The *supervisor* elected in each ward of the city represents his ward on the county board.

The *assessor* assesses all taxable property within the city.

The *city marshal* is the chief of the police next in authority to the mayor, and is occupied in preserving order and enforcing the laws. He may have one or more *policemen*, according to the size of the city, to assist him.

It is the duty of the *street commissioner* to superintend the construction of sidewalks, and the laying out and paving of the streets and all matters connected therewith.

The *city surveyor* makes all official surveys within the city.

CHAPTER XI.

BILL OF RIGHTS.

Our King, the People.—No thoughtful person can read our constitution or the bill of rights, which is a part of it, without being impressed with the idea that the purpose of our government and its sole purpose, is the welfare of the people. It will also be noticed that the people are their own rulers. We have no king, no monarch, no emperor who secures to us these liberties and rights which we enjoy.

We, the people of Wisconsin and we, the people of this United States, are the rulers, the kings, the sovereigns of the country. However, it is not convenient for us all to take part directly in making the laws, in executing the laws, or in deciding exactly what the law in any given cases in dispute between man and man may be. Therefore we have delegated these powers to our legislators, to our executive officers and to our judges, all of whom by our votes we select, as competent and trustworthy men, to perform these duties, these services, for us. All public officials are therefore our servants.

The legislators make laws for and by authority of the people. The executive officers enforce the laws for and by authority of the people. And the judiciary adjudge and apply the laws in disputes between men, for and by authority of the people.

The people are the ultimate source of all power in our government.

Freedom.—Freedom does not mean absolute liberty to do as one chooses. If but one individual inhabited this earth, he of a truth, would enjoy such liberty, but were a second person to appear, the absolute freedom possessed by the first would be decreased, or he would encroach upon the freedom of the second. Freedom is therefore a relative term. In an open field one is at liberty to swing his arms and fists about as he pleases, but in a crowded assembly he does so at his peril. Freedom, then, is merely the right to do what any other person may do who is situated in like circumstances.

Equality of Men.—The constitution declares that all men are born equally free and independent. This does not mean that all men have the same abilities, or equal abilities, or that they are capable of an equally high degree of mental or physical culture. It simply means that it is the policy of our laws to make no discriminations among men or classes of men. All are to be equally free in the eyes of the law to accumulate property, or do any other act which any one may be permitted to do.

Slavery.—Our constitution prohibits slavery. It will be remembered that it was one of the main features of the ordinance of 1787 that slavery should never exist in the Northwest Territory. Criminals, duly convicted, however, may be compelled to work in serving out a term of imprisonment, which is a sort of involuntary service, but not slavery.

Freedom of Speech.—The constitution gives us the right to express our opinions either by speech or by means of the press without restriction, but at the same time holds us accountable for any abuse of this privilege. Freedom of speech does not mean that we can slander or

tell false and base things about another. While we have freedom of speech, we each, also, have a right to a reputation uninjured by false statements, or even statements which are true, but made without a proper motive, to injure one's reputation.

In European countries there are and have been in the past very stringent laws restricting the right of the people to express their sentiments upon certain subjects, especially upon persons of noble birth, or the rulers of the country. In England not many years ago, it was considered treason to speak ill of the king, and even to think of his death was treason.

Assembly and Petition.—In a government, republican in form, one of the most effective and available means the people have of expressing their ideas and influencing those delegated to enact laws for them is by public assemblies. These serve as a means of education to the people because of the discussion of questions therein considered, as well as a means of conveying to those in authority the desires of the people.

Another more common means of drawing the attention of the legislators to the wishes of the people is by means of petitions which express the ideas of the people whose names are subscribed thereto. The right of these methods of expression of opinion can not be taken away from the people without their consent.

Trial by Jury.—A jury consists of twelve men who listen to the evidence in a case and decide as to the facts; that is, they decide in a civil case for instance, whether the defendant owes the plaintiff anything or not, and if so, how much; in a criminal case whether the accused is guilty of the crime charged. To be tried by

one's peers (equals), a jury, is one of the great safeguards to human liberty.

The right to trial by jury in all cases at law is a constitutional right which the constitution declares shall remain inviolate.

A jury may be waived by the party in all civil cases.

The right to trial by jury remains as it was under the ordinance of 1787, or at common law. In equity cases, therefore, no jury is necessary, as none was allowed at common law.

Excessive Bail and Punishment.—That poor people and those of moderate means may not be cast into prison because unable to obtain sufficient bail, it is provided that excessive bail shall not be required, and in estimating the amount of bail in a given case, the gravity of the case and the financial condition of the accused is considered. Bail is the security which one gives that he will appear in court at the time of trial. If he does not appear at trial the bail is forfeited, and the parties who signed his bail bond are compelled to pay the state the amount of the bail. After giving bail one is given his liberty, but if he does not appear at trial he may be retaken even after the bail is forfeited and paid.

Nor can excessive fines be imposed such as would be a burden greatly out of proportion to the offense committed. The law usually prescribes the amount of a fine in any particular case liable to arise. Nor can cruel and unusual punishments be inflicted, such as whipping, burning, dragging to the gallows, quartering, etc., which were commonly used two hundred years ago.

The Rights of Accused Persons.—One accused of a crime is given all reasonable means of establish-

ing his innocence, the law even presuming him innocent. He may appear in court and defend himself, or may have counsel, a lawyer, to defend him, and if he is unable to pay a lawyer the state bears the expense. He of right may know the exact crime of which he is accused that he may intelligently arrange his defense.

He has a right to be in court during the trial and confront the witnesses who testify against him, and hear their testimony.

Witnesses in his favor are compelled to appear in court and testify as to their knowledge of the case.

He must be tried by a jury which is impartial and selected from the district (county) wherein the crime was committed.

He may demand a speedy trial that he may prove his innocence and release his bondsmen; or if he be in jail, that he may be given his liberty and not suffer protracted imprisonment awaiting trial.

The Grand Jury.—A grand jury consists of from twelve to twenty-three men, who are called from the county by the court to secretly investigate charges against accused persons, and if twelve of them agree that there is sufficient evidence against one, they so inform the court, and the accused is said to be indicted. As the constitution originally stood all criminals had to be indicted by a grand jury before they could be tried for the crime publicly, but as the grand jury system is slow and expensive, it has been changed by amendment, and now accused persons are tried either upon indictment by a grand jury or upon the information furnished by the district attorney. The constitution now reads that no person shall be held to answer for a criminal offense without due process of law. Instead of being indicted by a grand jury, informations are now filed

against accused persons by the prosecuting officer (district attorney) or by private persons, who swear to the same.

Twice in Jeopardy.—No person can be twice put in jeopardy, *i. e.*, tried twice for the same offense.

This is to prevent the persecutions that innocent persons otherwise might be compelled to suffer were they to be liable to a second suit after once establishing their innocence in court.

Treason.—Treason has always been considered the gravest of crimes. In general terms treason is usually any act against the sovereignty of a nation. As the emperors and kings of the Old World represent the sovereignty, it has been considered treason in many cases to speak ill of the king or to deny his authority even in simple matters. But with us our sovereignty is not so easily injured. Treason against the state is declared to consist only in levying war against the state or in adhering to its enemies by giving them aid and comfort.

That one may not be convicted of treason on slight evidence, it is provided that there must be at least two witnesses to the same treasonable act, or the accused must confess treason in open court.

Searches and Seizures.—People's homes in the eye of the law and the constitution are deemed sacred. According to the common law a man's house is his castle, not to be entered at pleasure by a stranger. Notwithstanding the above, however, officers in England used to be permitted by means of search warrants of a general nature to enter any one's house they might desire under pretense of searching for stolen goods. With us an officer cannot search a house unless he has a search warrant issued by some qualified official upon the oath of an individual stat-

ing good reasons for a belief that the specified goods are concealed in the designated house to be searched. Neither can one's person be searched without a similar authority.

This preserves the seclusion of the home and the privacy of the person from lawless intrusion, and prevents one's property being taken from him without due process of law.

Bill of Attainder, Etc.—No bill of attainder, ex-post facto law, nor any law impairing the obligation of contracts shall ever be passed, and no conviction shall ever work corruption of blood or forfeiture of estate.

By the United States constitution the states are especially forbidden to pass these laws, and the state constitution merely repeats the prohibition. (See these subjects in the United States constitution.)

CHAPTER XII.

BILL OF RIGHTS.—CONTINUED.

Right of Eminent Domain.—Land owners usually consider that they absolutely own their land to the exclusion of every one else, but that is not the exact truth. All concede that the government may tax the property within its boundaries. The theory goes even further than the mere right to tax property. It goes so far as to place the ultimate title of all property in the state, and the taxes we pay may be considered as a sort of rent.

However this may be, it is true that where land or other property is needed by the state for any public use, as for roads, wharves, railroads and other institutions of general public benefit, the state may take the land or property by rendering a compensation to the owner therefor. This taking of property for public use is the exercise of the right of eminent domain, but with us it can only be exercised by rendering a just value to the owner of the property. Eminent domain signifies the ultimate or higher title of the state in the property of its citizens or those subject to its jurisdiction.

Land Tenures.—After the Normans conquered England, William the Conqueror introduced what is known as the feudal system of land tenure by dividing the land he had conquered among his generals or leading assistants in the conquest. These in turn pledged him loyalty and assistance in case of war, or paid him a certain amount as

rent for the land. These were the king's vassals. They, however, sublet the land again to others beneath them, who were their vassals, and who obliged themselves to furnish men in time of war and took the oath of allegiance and fidelity to their immediate lord. Thus, under this system, the king was the ultimate owner of all land, to whom all his vassals owed allegiance and service. These vassals were themselves lords to a second set of vassals, who owed allegiance and service or paid rent to them, and the system might be extended on in this manner indefinitely. Certain restrictions were placed upon the ownership of these vassals. They could only sell to others under certain restrictions. The marriage of the vassal's children was in part controlled by the lord, and certain amounts were due the lord upon the death of a vassal and the inheriting of the property by his heir.

These evils are all done away with by our constitution, and feudal tenure is declared to be abolished, but regardless of all this, many of the features of the feudal system are still found in our system of land tenures. All lands in this state are allodial, that is, each man owns his land absolutely, subject only to the right of the state as to taxation and the right of eminent domain.

Resident Aliens.—Persons who are not citizens of this state, but who reside here, are given equal rights and privileges with citizens, both as to the enjoyment of personal and real property and its descent to heirs.

Imprisonment for Debt.—No person can be imprisoned for debt in this state. Persons may be imprisoned for frauds practiced in regard to a debt, or in certain civil actions of the nature of a debt, but only when they are guilty of some wrong or fraud, or may reasonably be suspected of an attempt to evade the law.

In practice, however, persons are seldom imprisoned in these cases from the fact that the law makes the person who secures their imprisonment liable for certain charges connected with the keeping of the person imprisoned.

The above has no reference to criminals, who may be imprisoned subject to the right to bail.

Exemption Laws.—In general it may be said that one's property may be attached, or otherwise made subject to the payment of his just debts. The laws, by means of attachments, liens, judgments, etc., have provided more or less summary methods by which a creditor may take control of his debtor's goods, and having them sold, apply the proceeds to the payment of the debt.

In certain cases, however, the law recognizes that the necessities of a man's family have a better claim on his property than have even his creditors.

It is, therefore, provided that certain possessions of a debtor cannot be seized by his creditor or otherwise made liable to sale for the payment of debts, without the consent of the debtor. Thus the homestead of forty acres, if not within a village or city, or a lot in a city or village, if not over one-fourth of an acre, together with a certain amount of farm machinery, stock, provisions, household furniture, clothing, the tools of a mechanic, the library of a professional man, the family bible, school books, family pictures and many other things are secure from the grasp of creditors.

There are many reasons for making these exemptions. The necessities of one's family demand it. The family might become a public charge were these things taken from them by the creditor. Also, the laborer, mechanic or professional man is supposed to be able to earn, by means of his tools or library, sufficient to not only support

his family but soon to pay his debts as well. But if his tools or library be taken from him he is helpless, and he, as well as his family, must thereafter be supported by the public.

Religious Freedom.—In few of the states of the Union, and probably in no foreign country, have the people as great religious freedom as have the people of Wisconsin. Every man may here worship Almighty God according to the dictates of his own conscience, without restriction or compulsion. This does not mean that one is licensed hereby to do whatever he may please under color of worship.

A man may believe whatever he pleases, or teach whatever he pleases. He may believe in Mormonism and teach it, but under the color of his belief he will not be permitted to have two or more wives. That is a practice contrary to our laws, which no religion can shelter. Nor, in this state, can one be compelled to aid in the support of a church or religion, nor can public funds be used in support of any religion, nor can our laws give any preference to any religious organization or society.

Religious Tests.—In many European nations there are established what are known as state churches, or state religions. These state religions are usually under the particular care and support of the state, and often the people of the nation are compelled not only to support such state religion, but also to belong to the church and conform to its teachings and practices. Moreover, the officials of the state are required to be members of this state church, this being one of the qualifications for office, known as the religious test. These state religions and the persecutions resulting therefrom drove many of the early

colonists to this country, and it is quite surprising, in view of this fact, that at times in a few of the colonies and even states, religious qualifications and tests have been required of state officers. In some cases, also, people not professing the faith of the state religion were disqualified to testify in judicial cases, being disqualified to take the required oath. These evils do not exist in Wisconsin, and are prohibited by the constitution.

Military Subordination.—The governor is at the head of both the civil and military power of the state. Being commander-in-chief of the military power of the state he has absolute control or command of that power. That this may not be used to the detriment of the state it is provided that the military power of the state is strictly subordinate to the civil power. Therefore, the governor or other members of the state militia, are subject to our civil laws. Should the governor abuse his military powers he could be impeached by the state legislature, as for any civil offense.

CHAPTER XIII.

MISCELLANEOUS PROVISIONS OF THE CONSTITUTION.

The Political Year.—The political year of this state begins on the first Monday in January of each year. This is the day upon which newly elected officers take their positions and old officers retire from office, unless some other provision is made by law.

Duelling.—A duel is a combat between two persons, with weapons, upon a previous agreement. Duelling was very common two hundred years ago, but has now largely gone out of use. It was once considered the proper way of settling disputes between gentlemen. Our government has looked down upon the practice from the start, and any inhabitant of this state who engages in a duel, either directly or indirectly, either as principal or accessory, is forever disqualified as an elector and from holding any office under the constitution of this state. Duelling is also punishable by the criminal laws of the state.

Disqualifications for Office.—1. Persons holding any office of profit or trust (postmasters excepted) under the United States, including members of Congress, are ineligible to any state office. As the state and national governments are not identical in interest, it is considered that one person cannot be an officer of both governments and do his complete duty to both. Postmasters may hold state offices, except as to membership in the legislature, as

their duties as postmasters are in no sense antagonistic to the interests of the state.

2. Any person holding any office under a foreign government is ineligible to office in this state. The reason for this is patent to all.

3. Any person convicted of an infamous crime in any court within the United States, and any person who is a defaulter to the United States, to the state, or any county or town therein, or to any state or territory of the United States, is ineligible to office in this state, because such a person is untrustworthy and not entitled to any governmental favors. A defaulter is one who has appropriated any public funds to his private use without permission or right.

Electors on Indian Lands.—The lands reserved for the homes of the Indians of the state are not organized into towns, nor are there any elections held therein. It is especially provided, however, that any qualified elector residing on such lands may vote for state, county and United States officers at the nearest polls to his residence within the county.

Division of Counties.—No county with an area of nine hundred square miles or less can be divided or have any part taken therefrom, unless a majority of all the voters of the county voting thereon shall be in favor of such division. All the people of a county are interested in the continuance of the present county government. A decrease in the size of a county necessitates heavier taxes to pay county officers and meet the ordinary expenses of the county.

But if a county is over thirty miles square other conditions may argue in favor of division. It is not conven-

WEST SIDE HIGH SCHOOL, MILWAUKEE.

ient to have counties so large. They cannot be governed as efficiently as smaller ones. So it is provided that the legislature may divide counties of over nine hundred square miles extent, even against the will of the people of the county.

Change of County Seats.—Before a county seat can be changed from one place in the county to another it is required that the point where it is to be located be fixed and a vote of the electors of the county be taken and be in favor of the change.

Impeachment.—Impeachment is a mere accusation brought against some public officer.

A person may be impeached but upon trial of the charges be adjudged innocent.

It is probably true that all municipal corporations have the power of impeachment, and the trial of the impeachment charges whether the power is expressly granted to them or not. This power usually is given to the legislative body; if of a city, to the common council; if of a state to the legislature, and if of the United States, to congress.

In this state, as to the state officers, the assembly has the sole power of impeachment, *i. e.*, of making the charges against an officer.

The officer so impeached is then tried by the senate sitting as judges or as a jury. A majority of all the members of the assembly must concur in favor of the impeachment.

An impeachment trial is not a criminal trial but one of a political nature, and therefore its punishments are usually only political. In this state the punishment is removal from office, or removal from office and disqualifica-

tion to hold any office of honor or trust under the state. Two-thirds of the members of the senate must concur to convict an officer.

Only the civil officers are liable to impeachment. Military officers are triable by court martial but are not subject to impeachment. It is also probably true that members of the legislature are not liable to impeachment. They may be expelled from either house for the same reasons for which other officers may be impeached and tried.

Those convicted on an impeachment trial are also liable to be tried by a court for the same offense.

The officers of a city may be removed on impeachment proceedings conducted by the common council.

CHAPTER XIV.

SUFFRAGE AND ELECTIONS.

Form of Government.—The constitution of the United States secures to each state a republican form of government. A democracy, it will be remembered, is a government wherein each person participates directly in all of the details of government. Each person takes part in making the laws, in executing the laws and in adjudging between litigants in the courts. In other words, the laws are made directly by all the people, are executed directly by all the people, and all the people hold court. Such a government is practicable only in a very small nation, one whose territory is not extensive and whose population numbers but few.

A government having an extensive territory and many thousand people cannot conveniently assemble all of its people together at any one place to make, execute or adjudge the laws.

The form of government nearest to a pure democracy which a large nation may have is what is known as a representative democracy, or a republic.

With us, then, it is impossible for all to take a direct part in all the details of government, and for this reason it becomes necessary to adopt some fair and expedient method of choosing our representatives whose duty it is to make our laws, to execute and administer them and to hold our courts for us.

Citizenship.—A citizen of a state or country may be said to be one who owes it allegiance and is entitled to its protection.

All persons born or naturalized in the United States and subject to its jurisdiction are declared by the constitution to be citizens of the United States and of the state wherein they reside.

It will therefore be seen that women and children, as well as men, are citizens. Citizens, however, are not necessarily voters, but voters are usually citizens.

As the Indians who preserve their tribal relations are governed by their own laws and are not subject to the jurisdiction of either the state or nation, but stand more as an independent nation under the care of the federal government, they are not citizens. But Indians may, upon abandoning their tribe, become citizens as well as other people. You do not need to be told that negroes or people of any race may be citizens.

The government of the United States and the government of the states are, in a sense, separate and distinct from each other. Each has citizens of its own who owe it allegiance and whom, within its jurisdiction, it must protect. The same person may have a sort of double citizenship, being a citizen of the state and at the same time a citizen of the United States. More properly, the citizenship of our people is divided between the national and state governments. A citizen of them both owes to the two all that a citizen owed to a state before the Union was formed and is entitled from the two the same protection that he was entitled to from a state before the formation of the Union. His allegiance and protection are in no sense in conflict as to the two governments, but are so divided that one exactly compliments the other.

United States Citizenship.—1. All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared citizens of the United States.

2. All children born out of the United States, whose fathers were at the time of the birth, citizens, are citizens of the United States.

3. All women married to citizens of the United States and who might themselves be lawfully naturalized, are deemed citizens.

Naturalization.—One of the principles of the common law was that a natural born citizen was always a citizen and had not the right of expatriation.

It was upon this principle that England claimed the right to impress American seamen who were of English birth, and which brought on the war of 1812.

The right of expatriation, or the right to abjure one's country and acquire citizenship in another, is declared by an act of Congress to be a natural and inherent right of all people, indispensable to the enjoyment of life, liberty, and the pursuit of happiness.

An alien may, therefore, be admitted to citizenship in the United States after a residence of five years.

He must, at least two years before his final admission, go before some court of record and on oath declare his intention to become a citizen of the United States and to renounce forever all allegiance to any foreign government. Again, after a residence of five years he must go before a similar court and on oath declare that he will support the constitution of the United States, and that he abjures all allegiance to any foreign state or nation.

It must appear that he has resided in the United States five years and within the state before whose court he is

naturalized, one year; and that he is a person of good moral character. If he has ever borne any hereditary title, or been of any order of nobility of the state from which he came, he must especially renounce such title or order of nobility.

State Citizenship.—Citizenship within the state of Wisconsin is not well defined. Neither the state constitution nor the statute law designates who are citizens of the state.

Probably it will be sufficiently correct for our purpose to state that all citizens of the United States, residing within this state, are citizens thereof.

In addition, foreigners who reside in this state and who have declared their intentions to become citizens of the United States are citizens of the state; their families, however, are not citizens of the state until the husband and father becomes a United States citizen. Also a certain tribe of Indians, the Stockbridge, who were once citizens of the United States by act of Congress but who returned to their tribal government and are therefore no longer citizens of the United States, are nevertheless citizens of the state.

Qualifications of Voters.—An elector is one who is given the right to vote at the elections for state and national officers. A citizen is not necessarily a voter. Women and children are not voters (women may vote at school elections) but they are citizens.

It is obvious to all that a mere child ought not to have the right to vote. Such a right in a child would be no advantage to the child whatever. His interests are better guarded by those of maturer years. Women are not given the right to vote in general, possibly, because they

never have enjoyed the right in England and other European countries from whence so many of our institutions have come, or there may exist other reasons which we will not here discuss.

Suffice it to say that the elective franchise is not a right inherent in a citizen, for many citizens are not voters, nor in a taxpayer for all taxpayers do not and should not vote, nor in a mere resident, for many people residing in the state cannot vote here.

The elective franchise is rather a privilege, a duty conferred upon certain of our citizens to be exercised for the benefit of all.

That our representatives may be judiciously chosen the duty of voting has been conferred upon those who, it is thought, will exercise it the best for the general welfare.

Accordingly, every male (or female at school elections) person, twenty-one years old or over, who has been a resident of the state for at least one year next preceding the election and for ten days a resident of the electoral district where he offers to vote, and who is either a citizen of the United States, or a foreigner who has declared his intentions to become a citizen of the United States, or a person of Indian blood who has once been declared a citizen, or a civilized person of Indian descent, not a member of any tribe, is a qualified elector at such election.

Disqualifications for Voting.—There is a list of persons who are deemed disqualified to vote because of mental incompetency or other disability prescribed by law.

Among these are all persons under guardianship and all insane persons. These are disqualified because they lack the mental ability to vote with proper discretion.

Traitors and felons are disqualified partly as a punish-

ment, and partly because the law deems such people unfit to take part in the affairs of government. They may, however, be pardoned and thus be restored to their former rights and privileges.

Persons who have participated in a duel either as principal or accessory, are disqualified. Nor can a person vote who has been convicted of bribery, unless pardoned. Also persons who are interested in any bet on the result of an election are disqualified to vote at that election.

Political Parties.—Political parties in this country have existed since the founding of the government. Each party is the champion of some theory of government which it promulgates as its party platform, and endeavors to secure the election of such persons as will put in practice the ideas of the party.

The purposes of a party should be the advancement of the welfare of the people in general, but it sometimes seems as though parties only try to get control of the government that they may distribute the public funds and offices among their leaders. Such proceedings are dishonorable and should be condemned.

Although there are evils connected with our political party system, yet the parties are quite essential. Persons desiring to bring about any reformation in government must unite themselves in an organization that they may act in unison, otherwise their efforts would be of little avail.

For instance, those who favor civil service reform can do little to help that reform unless they vote together for a president who is in favor of that measure. They must therefore organize themselves into a political party, hold a party convention and put in nomination some candidate

who favors their reform, and secure his election by a united effort of all the party.

Caucuses.—The political parties, usually, sometime before an election, hold a party caucus or primary election at which they select some member of the party as a candidate for the office to be filled at the election, or if the office is one for more than one electoral district, each electoral district holds a party caucus and elects delegates from their number to attend a general caucus or convention of the several districts, which convention selects a candidate for the office. Thus, town and ward caucuses are held by a political party to nominate candidates from that party for town or ward offices and also to elect delegates to a county caucus or convention. The county convention, made up of the delegates from the towns and wards nominate members of the party for the county offices and also select delegates to attend the state convention of the party, which convention nominates the party's candidates for the various state offices. These caucuses, or primaries, are very important, and every good citizen should attend the primary of his party, for if bad men are nominated for the town offices by the party, they are usually elected, and if bad men are sent as delegates to the county convention, the same kind of men will be named for the county offices, and also bad men will be sent to the state convention which in turn will place disreputable men on the party's ticket for the state offices.

The best way, and the only way, to get good men to fill our public offices is to have every good man who is a member of the party, attend the caucuses.

Men who do not attend the caucuses held by their party have no right to complain of bad men in office.

Registration.—There are many frauds practiced at our elections. One of the most common in the larger cities is the fraudulent voting of men who are not qualified. To prevent this evil there is provided a system of registration of the electors in the larger cities and villages and the towns in which these cities are located.

On the Tuesday four weeks previous to any general election, in all cities or incorporated villages of a population of three thousand or over, and in every town in which any such village is located, the board of registration meets and registers the names of all who may present themselves as electors in the election district.

This list of electors is then posted and a week before the day of the election it is revised, and the names of those who have been registered and are not entitled to vote, are stricken from the list. All electors whose names are not registered are not entitled to vote at the election unless they, under oath, make it appear to the election inspectors that they are qualified electors.

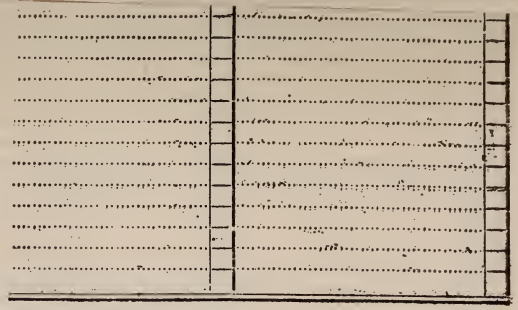
Official Ballots.—Another great evil common to our elections has been the buying of votes and the undue influence brought to bear upon voters.

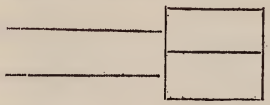
To prevent this, we have adopted the secret ballot system of voting similar to the "Australian System."

The names of all the candidates are printed upon the one ballot, arranged in columns according to the political party whose candidate they are, which ballots are furnished at public expense.

The voter is given one of these ballots, and goes alone into a secret apartment where he marks a cross after such of the names on the ballot as he wishes to vote for, and then places his vote in the ballot box.

No one knows how he votes. People are less apt to





e.)

SAMPLE
Official Ballot.

If you desire to vote an entire party ticket, make a cross mark in the □ square under party designation at the head of the ballot. If you desire to vote for all the ticket, except particular persons, erase their names, or mark opposite the name of the candidate you desire to vote for in another column, if it be there, or write in the name you wish to vote for. If you desire to vote for candidates on different tickets, erase the name of the candidate you do not want to vote for and make a cross (X) opposite and after the name of the candidate you desire to vote for, or write his name in the blank space under the name erased.

	Democratic Ticket. □	Peoples Ticket. □	Prohibition Ticket. □	Republican Ticket. □	National Democratic Ticket. □	Individual Nominations. □	Individual Nominations. □
NATIONAL—							
President	WILLIAM JENNINGS BRYAN	WILLIAM JENNINGS BRYAN	JOSHUA LEVERING	WILLIAM McKINLEY	JOHN M. PALMER	CHARLES E. BENTLEY, National	CHARLES H. MATCHETT, Socialistic Labor
Vice President	ARTHUR SEWALL	THOMAS E. WATSON	HALE JOHNSON	GARRET A. HOBART	SIMON B. BUCKNER	JAMES H. SOUTHGATE, National	MATTHEW MAGUIRE, Socialistic Labor
Electors of President and Vice-President of the United States.	GEORGE W. CATE	GEORGE W. CATE	CHARLES F. CRONK	JOHN D. NELSENIUS	LYMAN J. NASH	ANNETTE J. SHAW, National	EMIL BEESCH, Socialistic Labor
	JOHN WINANS	JOHN WINANS	CHARLES ALEXANDER	PAUL LACHMUND	JOHN C. LUDWIG	NEWELL DEAKRITT, National	ROCHUS BABNIK, Socialistic Labor
	ERNST MERTON	ERNST MERTON	NEWCOMB E. TULLY	OSSIAN M. PETTIT	JOHN B. KUPFER	LILY BUNALS, National	CHARLES WEISS, Socialistic Labor
	OWEN KING	OWEN KING	HENRY A. MINER	MARK CURTIS	C. HUGO JACOBI	OLIVER H. CROWL, National	FRED FARCHMIN, Socialistic Labor
	HENRY J. STEINMAN	HENRY J. STEINMAN	JOHN C. MARTIN	LEWIS C. BOYLE	GEORGE KROUSKOP	WASHINGTON I. CARPENTER, National	ALBERT PIPPENBURG, Socialistic Labor
	MICHAEL J. WARNER	MICHAEL J. WARNER	CHARLES EDWARD REED	ELLICOTT R. STILLMAN	BEDFORD B. HOPKINS	ORVIE E. THOMPSON, National	CARL OROESCHEL, Socialistic Labor
	CHRISTIAN ROEMER	ALBINUS A. WORSLEY	SOLOMON VANDEWALKER	WILLIAM J. MALLMANN	CASPER H. M. PETERSEN	MARTHA W. LAW, National	FRED BUOELMAN, Socialistic Labor
	ALBINUS A. WORSLEY	JOHN L. BEA	ALMON FRANCIS COLLINS	GEORGE D. BREED	WILLIAM DICHMANN	ORO. W. SHERWOOD, National	GUSTAV LAUENSTEIN, Socialistic Labor
	JOHN L. BEA	HERMAN NABER	JOHN R. ODDEN	IVER PEDERSON	CHARLES FRANZ	LUTHER W. WOOD, National	JOHN KETTEMANN, Socialistic Labor
	HERMAN NABER	CHARLES L. DREKKEN	JOHN FAVILLE	FREDERICK A. HOLLMANN	AUGUSTUS LEDYARD SMITH	HENRY E. WARD, National	CHARLES LACHMUND, Socialistic Labor
	CHARLES L. BRUCKEN	LESTER WOODARD	HENRY HAPPELL	OAKMAN A. ELLIS	WILLIAM F. SHEA	GEDEON YOUNG, National	PAUL REUTHER, Socialistic Labor
	LESTER WOODARD	CHRISTIAN ROEMER	ELISHA G. PARTRIDGE	SAMUEL J. DRADFORD	SAMUEL N. DICKINSON	JOHN E. BARTLETT, National	OTTO SCHULTZ, Socialistic Labor
STATE—							
Governor	WILLIS C. SILVERTHORN	WILLIS C. SILVERTHORN	JOSHUA H. DERKEY	EDWARD SCOFIELD		ROBERT HENDERSON, National	CHRIST TUTTROP, Socialistic Labor
Lieutenant Governor	HORATIO H. HOARD	HORATIO H. HOARD	EPHRAIM LLEWELLYN EATON	EMIL BAENSCH			HENRY REESE, Socialistic Labor
Secretary of State	CYRUS M. BUTT	CYRUS M. BUTT	EUGENE BRUCE KNOWLTON	HENRY CASSON		EUGENE B. KNOWLTON, National	JACOB BUMMEL, Socialistic Labor
State Treasurer	WILLIAM F. PIERSTORFF	WILLIAM F. PIERSTORFF	LORENZO CRANDALL	SEWELL A. PETERSON		LORENZO CRANDALL, National	JOHN RIEDEL, Socialistic Labor
Attorney General	HENRY I. WEED	HENRY I. WEED	ALBERT E. DIXON	WILLIAM H. MYLREA		GEORGE O. JONES, National	OTTO R. E. GUNDERMANN, Socialistic Labor
State Superintendent	FRANCIS CLEARY	FRANCIS CLEARY	WILLIAM L. MORRISON	JOHN Q. EMERY		WILLIAM L. MORRISON, National	HERMAN SEIDT, Socialistic Labor
Railroad Commissioner	CHARLES F. KALK	CHARLES F. KALK	OLE ANTHONY CHRISTENSEN	DUNCAN J. McKENZIE		OLE A. CHRISTIANSON, National	AUGUST GREIFENHAGEN, Socialistic Labor
Commissioner of Insurance	FREDERICK W. THAL	FREDERICK W. THAL	JAMES ELBERT BROADWELL	WILLIAM A. FRICKE		JAMES E. BROADWELL, National	FRED SCHUSTER, Socialistic Labor
CONGRESSIONAL—							
Member of Congress, 10th Dist.	FREDERICK H. REMINGTON	FREDERICK H. REMINGTON	PETER A. OSCAR	JOHN J. JENKINS		FREDERICK H. REMINGTON, (Republican, Free Silver)	
LEGISLATIVE—							
State Senator, 10th District	MARK M. SANDERSON	MARK M. SANDERSON	MELVIN JOHNSON	DEMPSTER W. WOODWORTH			
Member of Assembly	WILLIAM O. BRADLEY	WILLIAM O. BRADLEY	ELISHA G. PARTRIDGE	HANS BORGHSENIUS			
COUNTY—							
County Clerk	NELS J. JENSEN	NELS J. JENSEN	JOHN EVERSON	HANS GEORGE THOEN			
Treasurer	LESTER GRIFFIN	LESTER GRIFFIN	PETER MEATH	TRUE WORTHY JEWELL			
Sheriff	DANIEL JONES	DANIEL JONES	JOHN W. RANDALL	EDWARD J. CAVE			
Coroner	ANTHONY BARRETT	ANTHONY BARRETT		JOHN CONWAY			
Clerk of the Circuit Court	ALBERT KABRAS	ALBERT KABRAS	JOHN W. BOHRER	WILLIAM J. EGBERT			
District Attorney	ANDREW J. KINNEY	ANDREW J. KINNEY	GEORGE OAKES	JAMES A. SHEAR			
Register of Deeds			WILLIAM P. MONROE	JAMES WALKER			
Surveyor	CASMIR D. LAMPORT	CASMIR D. LAMPORT		JOHN McCLURE			
Superintendent of Schools	OLIVE B. CALDWELL	OLIVE B. CALDWELL		FRANK W. BIXBY			

For the Amendment to Section 1, of Article 10, of the Constitution ——— □

Against the amendment to Section 1, of Article 10, of the Constitution ——— □

(If you wish to vote for the amendment, make a cross in the square opposite the upper line; if against it, mark opposite the lower line.)

Weight Ratios

27 WASTE

buy a vote when they are not certain that it is cast as they desire; nor are the influencing and intimidation of voters of much use when they vote secretly.

Elections, when held.—The general elections for United States officials are held on the Tuesday next after the first Monday of November of even numbered years.

These officials enter upon the duties of their offices on the fourth day of March next succeeding their election.

The general election for state officers is held at the same time as is the United States general election, on the Tuesday after the first Monday in November of even numbered years, and these officers enter upon the duties of their offices as follows: The state officers on the first Monday in January next after their election, and the state senators and assemblymen, at 12 o'clock M. on the second Wednesday in January, next after their election.

County officers are elected at the same time as are the state officers and take their offices on the first Monday in January thereafter.

Judicial elections for the selection of justices of the supreme court, circuit judges and county judges are held on the first Tuesday in April, and they enter upon the duties of their offices on the first Monday in January next after their election.

SAMPLE OFFICIAL BALLOT FOR MUNICIPAL ELECTIONS.

Mark a cross opposite the name of the person you wish to vote for, or write his name in the blank space under the name erased, or if you wish to vote for an entire ticket mark a cross (X), in the square above such ticket.

MUNICIPAL TICKET.

	DEMOCRATIC TICKET.	PROHIBITION TICKET.	REPUBLICAN TICKET.	UNION LABOR TICKET.	INDIVIDUAL NOMINATIONS.
	☐	☐	☐	☐	☐
For Mayor.....	A. B.....	A. B.....	A. B.....	A. B.....	A.B., Prohibitionist
	.....	.....	.....	.....	.....
For City Clerk....	C. D.....	C. D.....	C. D.....	C. D.....	C. D., Republican.
	.....	.....	.....	.....	.....
For City Treasurer	A. B.....	C. D.....	C. D.....	C. D.....	C. D., Democrat..
	.....	.....	.....	.....	.....

CHAPTER XV.

TAXATION AND FINANCE.

Taxation.—Taxes are the contributions which persons are obliged to make to the government, to be used in its support.

The right of taxation exists necessarily in all governments. It is not a mere payment which the taxpayer makes in return for the benefits which he derives from the government, for taxes are not apportioned among the people upon any such basis. The government collects taxes without regard to any benefit which the subject derives in return.

People, however, are willing to pay taxes when required to do so by law, because they receive, usually, far more benefits from the government than the amount of their taxes.

Kinds of Taxes.—Taxes may be considered as direct and indirect.

A tax of a certain amount upon each individual, or a tax assessed against specific articles of property, is a direct tax. A tax upon goods imported or exported, sold, manufactured or used, is an indirect tax.

These indirect taxes are not, properly speaking, taxes upon the goods as such, but are taxes upon the right of importation, exportation, sale, manufacture and use, and only indirectly are they a tax upon the goods themselves; hence they are called indirect taxes.

To arouse thought upon this subject we might mention that there are known to the world personal or capitation taxes, property taxes, land taxes, personal property taxes, taxes on houses, income taxes, taxes on the wages of labor, taxes on servants, horses, dogs, carriages, taxes on interest of money, taxes on legacies and inheritances, taxes on newspapers, legal documents and amusements, taxes on the sale of liquors, cigars, tobacco, tea, coffee and matches, and hosts of others which need not be mentioned.

Methods of Taxation.—Both direct and indirect taxation is practiced in this state. Our taxes are levied when direct against all kinds of property, with few exceptions, both real and personal, at its full market value, or against the person as a capitation tax, known as the poll tax, which is the only personal tax which we have at present.

Ultimately the power to assess taxes rests in the state, and naturally in that department of the state which makes the law, the legislature. For convenience, however, the legislature has delegated a part of this power, with certain limitations, to the county, the town and the municipal corporations, or incorporated cities and villages, and to school districts, so that we have state taxes, county taxes, town taxes, municipal taxes and school taxes.

These are all paid at one time, however, and the taxpayer seldom knows the exact amounts which he pays for the various divisions of government.

A state board of equalization meets at Madison and estimates the amount of money necessary to defray the expenses of the state government for one year according to the appropriations authorized and made by the legislature, which amount is the state tax for that year. The board also, from all sources available, ascertains the valu-

ation of the taxable property of the whole state, and also of each county separately, and apportions the amount of the state tax among the various counties according to the wealth of each county. The county clerk of each county is notified of the amount of the state tax due from his county.

The county board, which is the board of equalization for the county, estimates the amount of money necessary to pay the expenses of the county government for the next year, which becomes the amount of the county tax. The county board also estimates the total value of all the property within the county, and of the property within each town or assessment district of the county, and apportions the amount of the state and county tax due from each such town or district. To this amount is added the amount necessary to pay the town and school expenses. Within each town or assessment district the assessor, a town, village or city officer, canvasses his district and lists all the property subject to taxation found within it. The town, village or city clerk then estimates the amount of tax due from each person owning property within the town, village or city. It then becomes the duty of the town treasurer to collect the amounts due from each person holding taxable property. After he has collected the taxes he pays the amount of the county and state tax to the county treasurer and retains the amount of the town, city or village tax. The county treasurer retains the county tax money, and pays over to the state treasurer the amount of the state tax.

The poll tax, which is a capitation tax of one dollar and fifty cents assessed against men between the ages of twenty-one and fifty years, is collected by the treasurer at the same time that the other taxes are collected.

The license required of druggists and saloon-keepers for the privilege of selling liquors, and the license required of peddlers, hawkers and shows are of the nature of an indirect tax.

Uniform Taxation.—It is one of the fundamental principles of our government, as declared in the constitution, that all taxation should be uniform.

That taxation is never exactly uniform is a well understood truth, the above rule merely demanding that the uniformity should be as perfect as the circumstances will permit.

It is necessary, in conformity with the above, that all property should be valued alike, or assessed at the same per cent. of its market valuation. Our property is all assessed at its full market value as near as practicable.

It is also essential that the rate of taxation should be the same throughout the whole taxing district. With us the state charges a certain rate, uniform throughout the state, upon the real value of the taxable property, as a state tax. The county charges a certain rate, uniform throughout the county, as the county tax. The same is true of the school districts, and of the towns, villages and cities.

Certain property within the state is exempt from taxation, as is the case with church property, property belonging to and used by charitable institutions, a limited amount of household furniture and clothing; and property belonging to the public, either the nation, state, county, town, school district or municipality.

It is essential to uniformity that the same kinds of property be taxed and the same kinds of property be exempt throughout the state. All property, both personal and real, is taxed in this state, unless especially exempt.

HIGH SCHOOL, JANESVILLE, WIS.

Finance.—Our constitution has several wise provisions which control to a certain extent the financial affairs of the state, and which have kept the state remarkably free from debt and extravagant expenditures.

A state may well afford to be liberal in its support of educational and charitable institutions when its treasury is not emptied by corrupt political expenditures.

Appropriations.—Subject to the constitutional restrictions the state legislature has complete control of the finance of the state.

No money can be paid out of the treasury except as the legislature has authorized by appropriations.

Claims Against the State.—It is a rule of law in private affairs that where a party has a claim against another he cannot remain quiet and not enforce his claim, beyond a certain length of time without losing his right to enforce the claim. This is known as the statute of limitations.

This rule is considered wise, as the circumstances surrounding the debt or claim become incapable of clear proof after the lapse of several years; some defense which the debtor originally had to the claim of his creditor he may not be able to prove after so long a time.

The state legislature is therefore prohibited from appropriating money in payment of a claim against the state unless such claim is presented within six years after the claim was due.

This does not apply to United States claims or any judgments against the state.

This six years limit prevents the legislature from favoring some party leader upon his fabricating some unjust, fradulent and illegal claim of so long standing that proofs for and against the same are lost entirely.

The Loan of State Credit.—The state is prohibited from loaning its credit in aid of any individual, association, or corporation.

States have often been compelled to pay the debts of railroad and other corporations which they have aided by backing or guaranteeing the payment of their bonds, or otherwise securing their debts.

Annual Tax.—That the ordinary expenses of the state may not be met by borrowing money and thus burdening the state with an unnecessary debt, it is provided that the ordinary expenses of the state shall be met each year by a tax levied for that year, of a sufficient amount to meet all ordinary expenses.

If in any year the amount of tax levied is insufficient, the deficiency is added to the amount of next year's tax, and thus no debt can be created to run for any length of time in defraying the ordinary running expenses of the government.

State Debts.—Evidently the framers of our state constitution were financiers of no mean standing, as our constitution well shows. Although the yearly running expenses of the government are not allowed to create a state debt, yet there are apt to be times of unusual need on the part of the state, when extraordinary expenses are incurred, and to meet these extraordinary expenses the legislature is authorized to create a state debt. But such debt must not exceed in the aggregate one hundred thousand dollars.

Upon the creation of such a debt the purposes, the extraordinary expenses, for which it is created must be specified; the legislature must vote by yeas and nays; three-fifths of each house is necessary to constitute a

quorum for such vote; a majority of all of the members of each house must vote in favor of the loan which creates the state debt; the law creating the debt must also provide for its payment by taxation, principal and interest, within five years of the date of the loan, and especially appropriate the proceeds of such tax to the payment of the loan; and such appropriation or such tax cannot be repealed until the principal and interest of such debt be wholly paid.

It has not been made certain by judicial decision what expenses would come within the term extraordinary expenses. It might include the cost of rebuilding the state capitol or other state buildings destroyed by fire or otherwise; or unusual expenses in preserving the public health, but any expense of annual occurrence would not be included.

War Debts.—Although the state is prohibited from declaring or waging any war wherein the state is the aggressor, it has the right to put down internal rebellion of any kind against its authority or to repel and to defend itself against an invasion from without the state.

For defraying the expenses of such a war the state is authorized to contract a loan and create a state debt, and it is commonly believed that such a state debt would not be subject to the one hundred thousand dollar limit, but might be for any amount necessary to conduct the war.

Funds secured by means of a loan authorized under the war debt clause of our constitution must be used exclusively in defraying the expenses of such war or in the payment of the debt.

Thus there are only two cases wherein this state may create a state debt, and these as given above are in case of extraordinary expenses and in case of war.

The state may not even issue any scrip, certificate or other evidence of state debt except as is allowed in the above two cases specified.

Internal Improvements.—Although the improvement of roads and rivers and the conducting of other works of a public nature for purposes of internal improvement might be advantageous to the state; yet as such improvements are often occasions for most extravagant expenditures and corrupt political practices, the constitution wisely prevents the state from undertaking such enterprises and from creating any debts for such purposes. But in case any grant of land or other property is made to the state, for the special purpose of defraying the expense of such improvements the state is authorized to carry on such work to the extent of such grant.

Vote on Fiscal Bills.—The financial legislation of this state is required to be conducted with much care and is subjected to many restrictions, as we have already seen.

In addition to the restrictions on financial legislation of which we have already spoken, it is provided that all measures of a financial nature, concerning state funds, debts or revenues, must be voted upon by yeas and nays, which vote must be entered upon the journal of the house so voting, and three-fifths of all the members elected to the house must be present to constitute a quorum.

Application of these Financial Requirements.—In general it may be said that the above financial restrictions apply only to the state and the state legislature.

Counties, towns, villages and cities may be and are authorized by the legislature to incur debts and to conduct internal improvements, and the bills before the legislature granting such powers to the political subdivisions of the

state are not financial measures subject to the above restrictions.

Neither are the debts of cities, villages, towns and counties any part of the state debt as contemplated in the constitutional limitation on the maximum amount of the state debt which cannot exceed, at any time, one hundred thousand dollars.

CHAPTER XVI.

EMINENT DOMAIN.

Explanation.—Eminent domain is that power vested in the state, by which it may, for any public purpose, take possession of the property of any individual.

This right is usually exercised in regard to lands.

The United States has the right of eminent domain sufficient to carry into effect all of its powers.

The principle of eminent domain rests upon the idea that the state is the primary and ultimate owner of the property within its boundaries and our constitution declares expressly that the people of the state, in their right of sovereignty, possess the ultimate property in all lands within the jurisdiction of the state.

Under this right of eminent domain private property is taken for the benefit of the public, as the taking of one's land for a street or for a railroad or for other uses equally public.

This right, however, can not be exercised in this state without compensating the individual for the property taken. The right is often conferred upon counties, towns, villages and cities, with the requirement that the owner receive a just compensation for his property. In case the right is to be exercised by a city, however, against the owner's consent, a jury must first decide that there is a necessity for the exercise of the right.

Territorial Extent of Power.—The rivers and lakes which form common boundaries between Wisconsin

and the other states adjoining her territory are subject to the concurrent jurisdiction of the two states so bounded. Thus the courts of Wisconsin and the courts of Minnesota have jurisdiction of any cause of action, either civil or criminal, arising on the Mississippi River, anywhere between these two states, *i. e.*, such a case could be properly tried in either state and it would make no difference if the cause of action arose very near one bank and far from the other.

The constitution further provides that the Mississippi River and the navigable waters leading into the Mississippi and the St. Lawrence, and the carrying places between the same shall be common highways and forever free to the inhabitants of the state and of the United States.

Escheat.—Escheat is the reversion of property to the state in consequence of a want of any individual to inherit it from the recent owner. If a person owning lands dies and leaves no relatives (heirs) to inherit his property, it will go to the state.

The idea of eminent domain that the state is the ultimate owner of all property within its jurisdiction, is the foundation of the right by which the state takes possession of the property where there is a failure of heirs to inherit.

CHAPTER XVII.

CORPORATIONS.

Definition.—A corporation is an artificial person, created by law, composed of individuals united under a common name (the members of which are succeeded by others, so that the body continues always the same, notwithstanding the change of the individuals who compose it), and which, for certain purposes, is considered a natural person.

Corporations are first divided into public and private. A public corporation is one having for its purpose the administration of a portion of the powers of government, as is the case with counties, towns, school districts, and municipalities. All other corporations are private.

All religious, charitable and commercial corporations are private. Even an educational corporation having for its purpose the organization and maintaining of schools separate from the schools supported by the government, is a private corporation.

Problems.—Business corporations are comparatively of recent date. One hundred years ago, probably there were not over a score of them in this country, and few in Europe.

By means of corporations men combine their capital and establish commercial and manufacturing institutions upon a large scale, and thus by the many advantages secured lessen the cost of production, and also decrease competition by running out smaller establishments.

One of the principal advantages of corporations over individuals and partnerships in business affairs is that the amount of money one puts into the corporation is the whole extent of his risk, unless especially provided otherwise by statute, while the whole of the individual's or partner's property is liable for the debts contracted in the business conducted in an individual capacity or as a partner.

In other words, a person may invest a part of his money in a corporate enterprise without charging the remainder of his property with the liabilities of the corporation.

Because of these advantages, we find that nearly all of the larger business enterprises of the country are now carried on by corporations.

The larger corporations engaged in one line of business sometimes combine to control prices or to control the supply of goods and to compel smaller establishments to go out of the business that they may enjoy absolute control of both prices and production. These combinations are most unjust and illegal and the principal source of the evils of our corporate enterprises.

Creation of Corporations.—In this country, the legislature is authorized to create corporations, that is, the legislature may grant a corporate body a charter, which charter specifies the powers, rights and privileges of the corporation.

In this state, however, the state reserves the right to alter, amend or annul the charter at any time.

Charters are of the nature of contracts between the state and the corporation and its members, and could not be changed by the legislature without the consent of the corporation, but for the reservation of this power, as no

law can be passed which impairs the obligation of any legal contract.

General laws have been passed which provide for the organization of both public and private corporations, the charters being issued in accordance therewith by the secretary of state. The constitution especially provides that no corporation can be created by a special law, if general laws will accomplish the purpose.

Indebtedness of Public Corporations.—It is quite essential that public corporations should have the power to contract debts to enable them to construct suitable buildings, bridges, streets, water-works and undertake other similar enterprises.

On the other hand the privilege is apt to be abused and extravagant enterprises undertaken by the public corporations, with funds raised by the creation of public debts.

This evil is obviated in this state by the requirement that no town, county, village, city or school district can borrow money, so as to create an aggregate debt for any purpose to exceed five per cent. of the valuation of the taxable property therein. And in case of the creation of any debt, there must, at the same time or before, be provided the collection of a direct annual tax sufficient to pay the interest and principal of such debt within twenty years from the date thereof.

Banks.—As we have elsewhere observed, the constition has carefully guarded the financial affairs and institutions of and within the state.

No banking law can be passed creating, authorizing or giving any powers to any banking corporation, unless the same be submitted to a vote of the people. This requirement reserves to the people all legislative power upon the subject of banks and banking.

CHAPTER XVIII.

AMENDMENTS.

Purpose of.—Governmental conditions are constantly changing which necessitate changes in the governmental organism, the constitution, to meet these new conditions.

Advancement in other fields necessitates and occasions advancement in government.

Moreover, experience points us to the defects which exist in our governmental institutions. No system is absolutely perfect. And if it were perfect at the time of its origin, the changes of time due to social and industrial advancement would soon make imperfect a constitution which under original conditions was without a fault.

Therefore, that original faults may be eradicated and that new needs may be supplied, it is wisely provided that our constitution may be changed by amendments thereto.

How Amended.—Constitutional amendments should not be easily effected.

Governmental institutions and constitutional laws should be stable, not subject to oscillations backward and forward with every fluctuation of the public mind.

For this reason the process by which our state constitution may be changed or amended is a slow one which the excitement of a day cannot accomplish.

Amendments to the constitution may be proposed by either house of the legislature.

If a proposed amendment is agreed to, or passes both

houses by a majority of the members elected to each house it then awaits the action of the next regular session of the legislature, to which it is referred, but it must be published three months previous to the time of holding the election for the members of this next session. And if in the legislature so next chosen the proposed amendment is again agreed to by a majority of the members elected to each house, it must be submitted to the people to be voted upon at such time and manner as the legislature may provide, and if a majority of the people voting thereon approve of the amendment it thereupon becomes a part of the constitution.

The proposed amendment is published just previous to the election of the second legislature which is to act upon it, so that it may be made an issue in the political campaign, and that the people may elect such legislators as will do the will of the people in regard thereto.

Every proposed amendment must, before it becomes a part of the constitution, be approved by the legislature, be published three months before the election of the next legislature, be approved by the second legislature, and then submitted to the people and approved by them.

Constitutional Convention.—The time may come when many features of the constitution will need to be changed.

It would be a tedious and complicated method to make so many changes in the manner prescribed for amending the constitution.

Therefore the constitution provides for the calling of a constitutional convention to revise the constitution or draft a new one.

This is done as follows: The legislature must pass a measure by a majority vote of each house recommending

the calling of a constitutional convention. The people at the next general election thereafter, must, by vote, approve of calling such a convention, and upon such approval the legislature at its next session must provide for the calling of the convention.

The delegates sent to the convention are elected by the people. This is the only way of selecting delegates practiced in this country.

Such convention has power to draft a constitution according to their own ideas, but it must be submitted to the approval of the people before it goes into effect, although Mr. A. O. Wright insists that a constitution drafted by such a convention becomes the constitution of the state without approval. (*Wright's Constitution of Wis.*, p. 151).

The authorities, however, hold that the constitutional convention must submit its work to the approval of the people before it becomes the law of the state and such is the practice of such conventions. See *Cooley's Constitutional Limitations*, p. 32; *Jameson's Constitutional Conventions*, secs. 415-418; and the *Am. and Eng. Enc. of Law*, vol. 3, p. 672.

No such convention has ever been called in this state.

CHAPTER XIX.

EDUCATION.

The Common Schools.—Although our state has its university, its normal schools and other public and private educational institutions, of which we are all justly proud, and which are of no slight importance in the intellectual and civil welfare of our people, yet, notwithstanding all these higher institutions, the most important factor in our educational system is our common schools. A large majority of our people find in them their only school training. To these same people is intrusted largely the control of our public affairs, not only at the polls but in all the civil machinery of this vast state.

Out of these too often poorly supported institutions of learning have gone the men and women who have given character and stability to American society. None can say they have not performed their part well. The welfare of our people and of their civil and private institutions depend not so much upon our university and colleges, therefore, as upon the little country school. May it ever receive our most thoughtful attention, that it may increase its usefulness.

The School District.—Each town is divided by the town board into school districts, with not more than six square miles of contiguous territory in each district. Each of these school districts has charge of its own school affairs, independent of the other districts of the town, but

subject to the laws of the state. A district is a body corporate, with powers to sue and be sued, contract and buy and sell, as its needs may require and the laws may permit.

The School Board.—The officers of each school district are a director, treasurer and clerk, who hold their offices for three years, one only being elected each year at the annual town meeting. These three officers make up the school board and have the general control of the schools of the district.

Annual School Meeting.—The electors of the district (women are electors in school meetings) meet at least once each year, on the first Monday in July, at 7 o'clock in the evening, unless otherwise provided. Special meetings may be called if necessary. At this meeting there is a temporary chairman elected, who presides over the meeting, and the district clerk acts as clerk of the meeting.

The annual school meeting is authorized to elect a director, treasurer or clerk, as the case may be, to take the place of such officer of the school board whose term then expires, and also to fill any vacancy which may have happened in the school board during the previous year. The meeting also acts as a sort of legislative body on the school matters concerning the district, and selects school house sites; votes a tax sufficient to defray the school expenses for the year; authorizes the sale of school property not needed; fixes the salary of teachers; authorizes the purchase of maps, charts and other apparatus for the schools of the district; votes taxes to pay any debt; authorizes the borrowing of money, and gives the school board such additional directions concerning school matters as may be deemed proper and legal.

Duties of District Board.—The director, treasurer and clerk constitute the district board. The director is the presiding officer at their meetings, the treasurer has charge of all moneys belonging to the district, and the clerk acts as secretary of the board and also of district meetings, and keeps correct minutes thereof.

The three officers have an equal voice in board meetings. It is the duty of the board to carry out the special instructions given them at the annual district meeting, to provide suitable buildings and school apparatus, to hire teachers, to prescribe rules for the proper regulation of the schools and for the expulsion and admission of pupils, to visit the schools and exercise a general supervision over them. It is the special duty of the director to countersign all orders legally drawn by the clerk on the treasurer, and to prosecute or defend all suits in which the district is interested.

Studies Taught.—In every district school there must be taught orthography, orthoepy, reading, writing, grammar, geography, arithmetic, the constitution of the United States and the constitution of the state, and physiology and hygiene with special reference to the effects of stimulants and narcotics on the human system, and such other branches as the district board may prescribe.

Teachers.—Every teacher must be licensed to teach, either by the county superintendent or the state superintendent. The teacher has authority to preserve order in the school and is responsible for its discipline and progress. He stands in a position toward the pupils similar to that of the parents, and must maintain order and require faithful performance of the duties assigned to each pupil. He has authority to enforce prompt obedience to his lawful

HIGH SCHOOL, BELOIT.

and reasonable requirements, and may inflict corporal punishment or suspend a pupil from school in a proper case.

County Superintendents.—The county superintendent has supervision of all the schools of his district. He examines and licenses teachers to teach in the same, visits each school at least once a year, and gives advice and aid to both teacher and school board; with the concurrence of the town chairman condemns school property as unfit for use, and conducts institutes.

School Library.—The laws of 1895 provide that the treasurer of each town shall withhold ten cents annually from the school fund collected in his town for every person of school age residing therein, which amount is to be expended by the town clerk, with the aid of the county superintendent, in the purchase of books, selected from a list prepared by the state superintendent, for a library for the use of the schools of the town, which books are to be distributed by the town clerk among the school districts in proportion to the amount of money withheld from each district.

The clerk of each district acts as librarian of the district, unless one is elected at the annual school meeting. These books are to be loaned by the librarian to the teachers, pupils and other persons of the district, according to rules prepared by the state superintendent regulating the management of these libraries. While school is in session the library is to be kept in the school under the care of the teacher.

Compulsory Education.—We have a compulsory education law in this state, but it is not well enforced.

The law makes it the duty of every parent or other person having under his control a child between the ages

of seven and fourteen to send such child to public or private day school for a period not less than twelve weeks in each year, which period of time is to be fixed by the school board prior to the first day of September of the year, and cannot exceed twenty-four weeks. A parent or person failing to comply with this law is liable to a forfeiture of from three to twenty dollars to the public school of the district. Each week or part of week which one so fails constitutes a distinct offense. This law is enforcible by the school board only, and, to their discredit, it is seldom if ever enforced. Teachers should influence school officers to perform their duty in this regard and thus benefit those children who do not attend school because of the indifference of their parents, or who are unnecessarily kept out of school by parents.

Truants may be committed to the state public school at Sparta for a term not to exceed two years.

Free High Schools.—Free high schools are schools organized in pursuance of a law which prescribes the course of study for the schools, places additional requirements as to qualifications of the teachers therein, and provides for a close supervision of the schools by the state superintendent and the state inspector of free high schools. These schools receive additional aid from the state over what the other public schools receive.

Appeals to State Superintendent.—Any person considering himself aggrieved by the decision of a school officer or any school meeting, may appeal to the state superintendent who, upon a proper investigation of the case, renders a final decision therein. The decision of the state superintendent must be obeyed by school officers and all concerned.

Free Text Books.—Text books may be supplied by the district to the pupils free of charge. The law provides that the free text book system may be adopted by a vote of the people at any annual school meeting, and the question must be submitted at each annual meeting and a vote thereon taken.

City Schools.—Most of the incorporated villages and cities have separate school governments provided for in their charters, and in these cases the school system differs slightly from the district system. But in case the city or village has not a special provision in the charter which outlines their school system, each city or village, unless otherwise provided, constitutes one school district, and is organized in every way similar to the district school system.

The Township System.—Several years ago a law was passed, which has been modified slightly from time to time, providing for a system of government for our schools known as the township system. This system may be adopted by a vote of the people at any town meeting, and although the system has many advantages, it has been adopted by very few towns.

Under the township system each town constitutes a school district, and what are now school districts, under the old system, are sub-districts of the township system. Each sub-district holds an annual school meeting and elects a clerk for the sub-district, and does little else, but may advise and recommend certain measures for the benefit of the district.

These sub-district clerks constitute the town board of school directors, and in their hands is placed the control of all of the schools of the town. The board of directors of the town meet in regular session twice each year, and

in such special meetings as may legally be called. The board elects from their number a president and vice-president, and some resident of the town, not necessarily a member of the board, secretary. These three constitute the executive committee to carry out and put in force all measures and orders of the town board of directors. In addition to this the secretary performs within the town, duties similar to those of the county superintendent in the county, in the way of visiting schools, advising with teachers and supervising the schools generally.

School Fund.—The school fund of the state is derived from the sale of all lands granted to the state by the United States (except the university lands); from property coming to the state by escheat; from money paid for exemption from military duty; from five per cent. of the net proceeds of the sale of all public lands; from the net proceeds of all penal fines, and from all grants to the state not especially granted for other purposes. Only the interest on this fund can be used. The fund is constantly increasing from the above sources, and the income from the fund now amounts to over two hundred thousand dollars annually.

School Taxes.—The income from the school fund is insufficient to support the schools of the state; therefore annual taxes are levied to make up the deficiency. In fact, the principal source of revenue for our schools is taxation.

There is a state tax of one mill per dollar levied annually, a county tax levied by the county board, and a district tax voted by the district.

By this means each district is not left to its own resources for support, but receives part support from the

county and part from the state tax, and is also aided by the general school fund. Thus, those districts whose taxable property is less than other districts in the county are by this means aided by the county tax. Likewise the poorer counties are aided by the state tax and the state school fund.

In the end, of course, the schools are largely supported by taxation, but by the above described method the wealthier regions of the state and the county are made to aid the less favored districts in the support of their schools.

Purpose of Education.—"To prepare us for complete living is the function which education has to discharge," says Spencer.

It is not alone for the benefit of the individual that the state looks after his mental training, but the state serves its own interests in so doing as well.

With us, where each individual has a certain part to perform in the affairs of government, it is quite important that each performs his part well—intelligently. The wisdom of our governmental affairs is fairly proportional to the wisdom of our people in general.

Tyrants may strengthen their power by keeping the people in ignorance, but republics never can do so. With us there is almost a perfect system of reciprocity in this matter. The state is interested in the welfare of each of its citizens, and each citizen is directly interested in the general good of the state.

State Institutions.—There are a number of state institutions of great importance, but not all of an educational nature.

The *State University*, located at Madison, is the largest educational institution of the state and is supported by the

state and under the direct management of a board of regents.

It has over one hundred members in its faculty and an attendance of about fifteen hundred students. It ranks among the first of the state universities.

The *State Normal Schools*, seven in number, located respectively at Plattville, Whitewater, Oshkosh, River Falls, Milwaukee, Stevens Point and West Superior, are quite important educational institutions. It is their especial purpose to train teachers for our schools. The number of normal graduates holding high positions in the schools of the state testify how well these institutions are fulfilling this purpose.

They are under the direct control of the board of normal school regents, and are supported by the state.

There are a number of other state institutions of which the *State Board of Control* have charge, including the *State Hospital for the Insane* at Mendota, near Madison; *Northern Hospital for the Insane* at Winnebago, near Oshkosh; *School for the Deaf* at Delavan; *School for the Blind* at Janesville; *Industrial School for Boys* at Waukesha; *State Prison* at Waupun; and *State Public School for Dependent Children* at Sparta.

The *Industrial School for Girls*, at Milwaukee, was originally a private institution, and is managed by a private board, but the state uses it as a reformatory for girls, and aids in its support.

The *Wisconsin Veterans' Home*, near Waupaca, was founded by the G. A. R., Department of Wisconsin, to care for honorably discharged indigent soldiers, sailors or marines of the war of the rebellion, who are not receivable into our national home, and their indigent wives or widows for whom no provision is made at the national

homes, and who have heretofore been separated, the wife going to the poorhouse, while the husband went to the national home.

The home is supported by the state, the G. A. R. and the national government. The property of the institution belongs to the state but is under the control of a board of trustees elected by the G. A. R. of Wisconsin.

Apropos to the above, there are six branches of the national home for disabled volunteer soldiers, the national home of the northwest being located at Milwaukee. It is under the care of the national government.

CHAPTER XX.

ORDINANCE OF 1787.

For the government of the territory of the United States, northwest of the River Ohio.

Be it ordained by the United States, in Congress assembled, that the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of congress, make it expedient.

Be it ordained by the authority aforesaid, that the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to and be distributed among their children, and the descendents of a deceased child, in equal parts; the descendents of a deceased child or grandchild, to take a share of their deceased parent in equal parts among them; and where there shall be no children or descendents, then in equal parts to the next of kin, in equal degree; and among collaterals the children of a deceased brother or sister of the intestate, shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases, to the widow of the intestate her *third part* of the real estate for life, and one-third part of the personal estate; and this law relative to descendents and *dower* shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws, as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing signed and sealed by him or her, in whom the estate may be (being of full age), and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses; provided such wills be duly proved, and such conveyances be acknowledged or the execution thereof duly proved, and be recorded

within one year after proper magistrates, courts and registers shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskias, Saint Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, that there shall be appointed from time to time, by congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

There shall be appointed, from time to time, by congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings every six months, to the secretary of congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common-law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

The governor and judges, or a majority of them, shall adopt and publish, in the district, such laws of the original states, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to congress from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander-in-chief of the militia, appoint and commission all officers of the same, below the rank of general officers; all general officers shall be appointed and commissioned by congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized, the powers and duties of the magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made, shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district, in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly; *provided*, that for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five, after which, the number and proportion of representatives shall be regulated by the legislature; *provided*, that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years, and in either case shall likewise hold in his own right, in fee simple, two hundred acres of land within the same; *provided also*, that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years' residence in the district shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for

which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by congress; any three of whom to be a quorum. And the members of the council shall be nominated and appointed in the following manner, to-wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to congress; five of whom congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to congress; one of whom congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of the council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to congress; five of whom congress shall appoint and commission to serve as members of the council, five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as congress shall appoint in the district, shall take an oath or affirmation of fidelity and of office; the governor before the president of congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house, assembled, in one room, shall have authority, by joint ballot, to elect a delegate to congress, who shall have a seat in

congress, with a right of debating, but not of voting, during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws, and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory; to provide also for the establishment of states, and permanent governments therein, and for their admission to share in the federal councils, on an equal footing with the original states, at as early periods as may be consistent with the general interest:

ARTICLES OF COMPACT.

It is hereby ordered and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact between the original states and the people and states in the said territory, and forever remain unalterable, unless by common consent, to-wit:

ARTICLE I.

No person demeaning himself in a peaceable and orderly manner shall ever be molested on account of his mode of worship, or religious sentiments, in the said territory.

ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offenses, where the proof shall be evident, or the presumption great. All fines shall be moderate, and no cruel or unusual punishment shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said terri-

tory, that shall in any manner whatever interfere with or affect private contracts or engagements, bona fide and without fraud, previously formed.

ARTICLE III.

Religion, morality, and knowledge being necessary to good government and the happiness of mankind; schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent, and in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars, authorized by congress; but laws, founded in justice and humanity, shall, from time to time, be made for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE IV.

The said territory, and the states which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts, contracted, or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new states, as in the original states, within the time agreed upon by the United States in congress assembled. The legislatures of those districts, or new states, shall never interfere with the primary disposal of the soil by the United States in congress assembled, nor with any regulations congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States, and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of the said terri-

tory as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ARTICLE V.

There shall be formed, in the said territory, not less than three nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to-wit: The western state in the said territory shall be bounded by the Mississippi, the Ohio and Wabash Rivers; a direct line from the Wabash and Post Vincents, due north to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line; *provided, however, and it is further understood and declared*, That the boundaries of these three states shall be subject so far to be altered, that if congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted, by its delegates, into the congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government; *provided*, the constitution and government so to be formed shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an early period, and when there may be a less number of free inhabitants in the state than sixty thousand.

ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted; *provided always*, that any

person escaping into the same, from whom labor or service is lawfully claimed in any of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service, as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the twenty-third of April, one thousand seven hundred and eighty-four, relative to the subject of this ordinance, be, and the same are hereby repealed, and declared null and void.

Done by the United States, in congress assembled, the thirteenth day of July, in the year of our Lord one thousand seven hundred and eighty-seven, and of their sovereignty and independence the twelfth.

WILLIAM GRAYSON, *Chairman.*

CHARLES THOMPSON, *Secretary.*

CHAPTER XXI.

CONSTITUTION OF WISCONSIN.

Preamble.—We, the people of Wisconsin, grateful to Almighty God for our freedom, in order to secure its blessings, form a more perfect government, insure domestic tranquillity, and promote the general welfare, do establish this constitution.

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1.—**Equality of Men.**—All men are born equally free and independent, and have certain inherent rights; among these are life, liberty, and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 2.—**Slavery Prohibited.**—There shall be neither slavery nor involuntary servitude in this state otherwise than for the punishment for crime, whereof the party shall have been duly convicted.

SEC. 3.—**Freedom of Speech and of the Press.**—Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libelous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the facts.

SEC. 4.—**Right to Assemble and Petition.**—The right of the people peaceably to assemble to consult for the common good, and to petition the government or any department thereof shall never be abridged.

SEC. 5.—**Trial by Jury.**—The right of trial by jury shall remain inviolate and shall extend to all cases at law, without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases in the manner prescribed by law.

SEC. 6.—**Bail and Punishments.**—Excessive bail shall not be required, nor shall excessive fines be imposed, nor cruel and unusual punishment be inflicted.

SEC. 7.—**Privileges of Accused.**—In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf; and in prosecutions by indictment or information, to a speedy public trial by an impartial jury of the county or district wherein the offense shall have been committed; which county or district shall have been previously ascertained by law.

SEC. 8.—**Prosecution of Offenses, Jeopardy, etc.**—[No person shall be held to answer for a criminal offense, unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or navy, or in the militia when in actual service in time of war or public danger; and no person for the same offense shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall before conviction be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require.] See amendment.

SEC. 9.—**Remedy For Wrong.**—Every person is entitled to a certain remedy in the laws, for all injuries or wrongs he may receive in his person, property or character; he ought to obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

SEC. 10.—**Treason.**—Treason against the state shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 11.—**Searches and Seizures.**—The right of the people to be secure in their persons, houses, papers and effects, against

unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the pesons or things to be seized.

Sec. 12.—**Bill of Attainder, etc.**—No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

Sec. 13.—**Private Property Rights.**—The property of no person shall be taken for public use without just compensation therefor.

Sec. 14.—**Land Tenures.**—All lands within the state are declared to be allodial, and feudal tenures are prohibited. Leases and grants of agricultural land, for a longer term than fifteen years, in which rent or service of any kind shall be reserved, and all fines and like restraints upon alienation, reserved in any grant of land hereafter made, are declared to be void.

Sec. 15.—**Property Rights of Resident Aliens.**—No distinction shall ever be made by law between resident aliens and citizens, in reference to the possession, enjoyment, or descent of property.

Sec. 16.—**Imprisonment for Debt.**—No person shall be imprisoned for debt arising out of, or founded on a contract, expressed or implied.

Sec. 17.—**Exemption of Property.**—The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted.

Sec. 18.—**Religious Freedom.**—The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent. Nor shall any control of, or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishments or

mode of worship. Nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

SEC. 19.—**Religious Tests.**—No religious tests shall ever be required as a qualification for any office or public trust, under the state, and no person shall be rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion.

SEC. 20.—**Military and Civil Power.**—The military shall be in strict subordination to the civil power.

SEC. 21.—**Writs of Error.**—Writs of error shall never be prohibited by law.

SEC. 22.—**Maintenance of Free Government.**—The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

ARTICLE II.

BOUNDARIES.

SECTION 1.—**Boundaries of State.**—It is hereby ordained and declared that the state of Wisconsin doth consent and accept of the boundaries prescribed in the act of congress entitled "An act to enable the people of Wisconsin Territory to form a constitution and state government, and for the admission of such state into the Union," approved August sixth, one thousand eight hundred and forty-six, to-wit: beginning at the northeast corner of the state of Illinois, that is to say, at a point in the center of Lake Michigan where the line of forty-two degrees and thirty minutes of north latitude crosses the same; thence, running with the boundary of the state of Michigan, through Lake Michigan, Green Bay, to the mouth of the Menominee River; thence up the channel of the said river to the Brule River; thence up said last mentioned river to Lake Brule; thence along the southern shore of Lake Brule, in a direct line to the center of the channel between Middle and South Islands, in the Lake of the Desert; thence in a direct line to the head waters of the Montreal River, as marked upon the survey made by Captain Cram; thence down the main channel of the Montreal River to the middle of Lake Superior; thence through

the center of Lake Superior to the mouth of the St. Louis River; thence up the main channel of said river to the first rapids in the same, above the Indian village, according to Nicollet's map; thence due south to the main branch of the river St. Croix; thence down the main channel of said river to the Mississippi; thence down the center of the main channel of that river to the northwest corner of the state of Illinois; thence due east with the northern boundary of the state of Illinois, to the place of beginning, as established by "An act to enable the people of the Illinois Territory to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states," approved April 18, 1818. [**Provided, however*, That the following alteration of the aforesaid boundary be, and hereby is, proposed to the congress of the United States as the preference of the state of Wisconsin, and if the same shall be assented and agreed to by the congress of the United States, then the same shall be and forever remain obligatory on the state of Wisconsin, viz.: leaving the aforesaid boundary line at the foot of the rapids of the St. Louis River; thence, in a direct line bearing southwesterly, to the mouth of the Iskodewabo or Rum River, where the same empties into the Mississippi River, thence down the main channel of the said Mississippi River, as prescribed in the aforesaid boundary].

Sec. 2.—**Enabling Act Accepted.**—The propositions contained in the act of congress are hereby accepted, ratified and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this state shall never interfere with the primary disposition of the soil within the same, by the United States, nor with any regulations congress may find necessary for securing the title in such soil to *bona fide* purchasers thereof; and no tax shall be imposed on land, the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. *Provided*, That nothing in this constitution, or in the act of congress aforesaid, shall in any manner prejudice or affect the right of the state of Wisconsin to five hundred thousand acres of land granted to said state, and to be hereafter selected and located, by and under the act of congress, entitled, "An act to appropriate the proceeds of sales of the public lands, and grant pre-emption rights," approved September fourth, one thousand eight hundred and forty-one.

*Not assented to by congress.

ARTICLE III.

SUFFRAGE.

SECTION 1.—**Who are Qualified Electors.**—[Every male person, of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the state for one year next preceding any election, shall be deemed a qualified elector at such election:

1. White citizens of the United States.
2. White persons of foreign birth, who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.
3. Persons of Indian blood, who have once been declared by law of congress to be citizens of the United States, any subsequent law of congress to the contrary notwithstanding.
4. Civilized persons of Indian descent, not members of any tribe. *Provided*, That the legislature may, at any time, extend by law the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall have been submitted to a vote of the people at a general election, and approved by a majority of all the votes cast at such election.] See Amendment.

SEC. 2.—**Who Not Qualified.**—No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election; nor shall any person convicted of treason or felony be qualified to vote at any election unless restored to civil rights.

SEC. 3.—**Vote by Ballot.**—All votes shall be given by ballot, except for such township officers as may by law be directed or allowed to be otherwise chosen.

SEC. 4.—**Residence Not Lost, When.**—No person shall be deemed to have lost his residence in this state by reason of his absence on business of the United States, or of this state.

SEC. 5.—**Who Not Residents.**—No soldier, seaman or marine, in the army or navy of the United States, shall be deemed a resident of this state in consequence of being stationed within the same.

SEC. 6.—**Who May be Disqualified.**—Laws may be passed excluding from the right of suffrage all persons who have been or may be convicted of bribery or larceny, or of any infamous crime, and depriving every person who shall make, or become directly or indirectly interested in, any bet or wager depending upon the result of any election, from the right to vote at such election.

ARTICLE IV.

LEGISLATIVE.

SECTION 1.—**Legislative Power.**—The legislative power shall be vested in a senate and assembly.

SEC. 2.—**Number of.**—The number of the members of the assembly shall never be less than fifty-four, nor more than one hundred. The senate shall consist of a number not more than one-third, nor less than one-fourth, of the number of the members of the assembly.

SEC. 3.—**Census and Apportionment.**—The legislature shall provide by law for an enumeration of the inhabitants of the state, in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and at their first session after such enumeration, and also for each enumeration made by the authority of the United States, the legislature shall apportion and district anew the members of the senate and assembly, according to the number of inhabitants, excluding Indians not taxed, and soldiers and officers of the United States army and navy.

SEC. 4.—**Assembly Districts and Elections.**—[The members of the assembly shall be chosen annually by single districts on the Tuesday succeeding the first Monday of November, by the qualified electors of the several districts; such districts to be bounded by county, precinct, town or ward lines, to consist of contiguous territory, and be in as compact form as practicable.] See Amendment.

SEC. 5.—**Senate Districts and Elections.**—[The senators shall be chosen by single districts of convenient contiguous territory, at the same time and in the same manner as members of the assembly are required to be chosen, and no assembly district shall be divided in the formation of a senate district. The senate districts shall be numbered in the regular series, and the senators chosen by the odd numbered districts shall go out of office at the expiration of the first year, and the senators chosen by the even numbered districts shall go out of office at the expiration of the second year, and thereafter the senators shall be chosen for the term of two years.] See Amendment.

SEC. 6.—**Qualifications of Members.**—No person shall be eligible to the legislature who shall not have resided one year within the state, and be a qualified elector in the district which he may be chosen to represent.

SEC. 7.—**Election Returns, Quorum, etc.**—Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day and may compel the attendance of absent members, in such manner and under such penalties as each house may provide.

SEC. 8.—**Rules, Contempts, Expulsions.**—Each house may determine the rules of its own proceedings, punish for contempt and disorderly behavior, and, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

SEC. 9.—**Officers.**—Each house shall choose its own officers, and the senate shall choose a temporary president, when the lieutenant governor shall not attend as president, or shall act as governor.

SEC. 10.—**Journal, Open Doors, Adjournments.**—Each house shall keep a journal of its proceedings, and publish the same, except such parts as require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than three days.

SEC. 11.—**Sessions.**—[The legislature shall meet at the seat of government, at such time as shall be provided by law, once in each year, and no oftener, unless convened by the governor.] See Amendment.

SEC. 12.—**Ineligibility to Office.**—No member of the legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the state which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected.

SEC. 13.—**United States Officers Ineligible.**—No person being a member of congress, or holding any military or civil office under the United States, shall be eligible to a seat in the legislature; and if any person shall, after his election as a member of the legislature, be elected to congress, or be appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat.

SEC. 14.—**Election to Fill Vacancies.**—The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature.

SEC. 15.—**Privileged From Arrest.**—Members of the legislature shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest; nor shall they be subject to any civil process, during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 16.—**Privilege in Debate.**—No member of the legislature shall be liable in any civil action or criminal prosecution whatever, for words spoken in debate.

SEC. 17.—**Style and Enactment of Laws.**—The style of the laws of the state shall be, "The people of the State of Wisconsin, represented in senate and assembly, do enact as follows," and no law shall be enacted except by bill.

SEC. 18.—**Private and Local Bills.**—No private or local bill, which may be passed by the legislature, shall embrace more than one subject, and that shall be expressed in the title.

SEC. 19.—**Origin of Bills.**—Any bill may originate in either house of the legislature, and a bill passed by one house may be amended by the other.

SEC. 20.—**Yeas and Nays.**—The yeas and nays of the members of either house, on any question, shall, at the request of one-sixth of those present, be entered on the journal.

SEC. 21.—**Compensation.**—[Each member of the legislature shall receive for his services, two dollars and fifty cents for each day's attendance during the session, and ten cents for every mile he shall travel in going to and returning from the place of the meeting of the legislature, on the most usual route.] See Amendments.

SEC. 22.—**Powers Conferred upon Supervisors.**—The legislature may confer upon the boards of supervisors of the several counties of the state, such powers, of a local, legislative, and administrative character, as they shall from time to time prescribe.

SEC. 23.—**Uniform Town and County Government.**—The legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable.

SEC. 24.—**Lotteries and Divorces.**—The legislature shall never authorize any lottery or grant any divorce.

SEC. 25.—**Stationery and Printing Contracts.**—The legislature shall provide by law that all stationery required for the use of the state, and all printing authorized and required by them to be done for their use, or for the state, shall be let by contract to the lowest bidder; but the legislature may establish a maximum price. No member of the legislature, or other state officer, shall be interested, either directly or indirectly, in any such contract.

SEC. 26.—**Extra Compensation.**—The legislature shall never grant any extra compensation to any public officer, agent, servant or contractor, after the service shall have been rendered or the contract entered into. Nor shall the compensation of any public officer be increased or diminished during his term of office.

SEC. 27.—**Suits Against the State.**—The legislature shall direct by law in what manner and in what court suit may be brought against the state.

SEC. 28.—**Oath of Office.**—Members of the legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe an oath or affirmation to support the constitution of the United States, and the constitution of the state of Wisconsin, and faithfully to discharge the duties of their respective offices to the best of their ability.

SEC. 29.—**Militia.**—The legislature shall determine what persons shall constitute the militia of the state, and may provide for organizing and disciplining the same, in such manner as shall be prescribed by law.

SEC. 30.—**Elections by Legislature.**—In all elections to be made by the legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal. [Sections 31 and 32 added, see Amendments.]

ARTICLE V.

EXECUTIVE.

SECTION 1.—**Governor.**—The executive power shall be vested in a governor who shall hold his office for two years. A lieutenant governor shall be elected at the same time, and for the same term.

SEC. 2.—**Eligibility.**—No person, except a citizen of the United States, and a qualified elector of the state shall be eligible to the office of governor or lieutenant governor.

SEC. 3.—**Election of.**—The governor and lieutenant governor shall be elected by the qualified electors of the state at the times and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor shall be elected. But in case two or more shall have an equal and the highest number of votes for governor or lieutenant governor, the two houses of the legislature, at its next annual session, shall forthwith, by joint ballot, choose one of the persons so having an equal and the highest number of votes for governor or lieutenant governor. The returns of election for governor and lieutenant governor shall be made in such manner as shall be provided by law.

SEC. 4.—**Powers.**—The governor shall be commander-in-chief of the military and naval forces of the state. He shall have the power to convene the legislature on extraordinary occasions; and in case of invasion, or danger from the prevalence of contagious disease at the seat of the government, he may convene them at any other suitable place within the state. He shall communicate to the legislature, at every session, the condition of the state, and recommend such matter to them for their consideration, as he may deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures, as may be resolved upon by the legislature, and shall take care that the laws be faithfully executed.

SEC. 5.—**Compensation.**—[The governor shall receive during his continuance in office, an annual compensation of one thousand two hundred and fifty dollars.] See Amendment.

SEC. 6.—**Pardons, Etc.**—The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treasons and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have the power to suspend the execution of the sentence until the case shall be reported to the legislature, at its next meeting, when the legislature shall either pardon,

or commute the sentence, direct the execution of the sentence or grant a further reprieve. He shall annually communicate to the legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon, or reprieve, with his reasons for granting the same.

SEC. 7.—**Lieutenant Governor as Governor.**—In case of the impeachment of the governor, or his removal from office, death, inability from mental or physical disease, resignation or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor, for the residue of the term, or until the governor, absent or impeached, shall have returned, or the disability shall cease. But when the governor shall, with the consent of the legislature, be out of the state in time of war, at the head of the military force thereof, he shall continue commander-in-chief of the military force of the state.

SEC. 8.—**President of Senate.—Secretary of State as Governor.**—The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If during a vacancy in the office of governor, the lieutenant governor shall be impeached, displaced, resign, die, or from mental or physical disease become incapable of performing the duties of his office, or be absent from the state, the secretary of state shall act as governor until the vacancy shall be filled, or the disability shall cease.

SEC. 9.—**Compensation.**—[The lieutenant governor shall receive double the *per diem* allowance of members of the senate, for every day's attendance as president of the senate, and the same mileage as shall be allowed to members of the legislature.] See Amendment.

SEC. 10.—**Veto Power.**—Every bill which shall have passed the legislature shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large upon the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall

be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

ARTICLE VI.

ADMINISTRATIVE.

SECTION 1.—**Administrative Officers, Election of.**—There shall be chosen by the qualified electors of the state, at the times and places of choosing the members of the legislature, a secretary of state, treasurer, and attorney-general, who shall severally hold their offices for the term of two years.

SEC. 2.—**Secretary of State.**—The secretary of state shall keep a fair record of the official acts of the legislature and executive department of the state, and shall, when required, lay the same and all matters relative thereto before either branch of the legislature. He shall be *ex officio* auditor, and shall perform such other duties as shall be assigned him by law. He shall receive as a compensation for his services, yearly, such sum as shall be provided by law, and shall keep his office at the seat of government.

SEC. 3.—**Treasurer and Attorney-General**—The powers, duties and compensation of the treasurer and attorney-general shall be prescribed by law.

SEC. 4.—**County Officer.**—[Sheriffs, coroners, registers of deeds and district attorneys shall be chosen by the electors of the respective counties, once in every two years, and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for two years next succeeding the termination of their offices. They may be required by law to renew their security from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff. The governor may remove any officer in this section mentioned, giving to such officer a copy of the charges against him and an opportunity of being heard in his defense.] See Amendment.

ARTICLE VII.

JUDICIARY.

SECTION 1.—**Court of Impeachment.**—The court for the trial of impeachment shall be composed of the senate. The house of representatives shall have the power of impeaching all civil officers,

of this state, for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. On the trial of an impeachment against the governor, the lieutenant governor shall not act as a member of the court. No judicial officer shall exercise his office after he shall have been impeached, until his acquittal. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try the impeachment, according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold any office of honor, profit or trust, under the state; but the party impeached shall be liable to indictment, trial and punishment according to law.

SEC. 2.—**Judicial Power, Where Vested.**—The judicial power of this state, both as to matters of law and equity, shall be vested in a supreme court, circuit courts, courts of probate, and in justices of the peace. The legislature may also vest such jurisdiction as shall be deemed necessary in municipal courts, and shall have power to establish inferior courts in the several counties, with limited civil and criminal jurisdiction. *Provided*, That the jurisdiction which may be vested in municipal courts shall not exceed, in their respective municipalities, that of circuit courts in their respective circuits, as prescribed in this constitution; and that the legislature shall provide as well for the election of judges of the municipal courts as of the judges of inferior courts, by the qualified electors of the respective jurisdictions. The term of office of the judges of the said municipal and inferior courts shall not be longer than that of the judges of the circuit courts.

SEC. 3.—**Supreme Court, Jurisdiction of.**—The supreme court, except in cases otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state; but in no case removed to the supreme court, shall a trial by jury be allowed. The supreme court shall have a general superintending control over all inferior courts; it shall have power to issue writs of *habeas corpus*, *mandamus*, injunction, *quo warranto*, *certiorari*, and other original and remedial writs, and to hear and determine the same.

SEC. 4.—**Organization of Supreme Court.**—[For the term of five years, and thereafter until the legislature shall otherwise provide, the judges of the several circuit courts shall be judges of the supreme court, four of whom shall constitute a quorum, and the concurrence of a majority of the judges present shall be necessary to a decision. The legislature shall have power, if they should think it expedient and necessary, to provide by law for the organization of a separate supreme court, with the jurisdiction and powers prescribed in this constitution, to consist of one chief justice and two associate justices to be elected by the qualified voters of the state, at such time and in such manner as the legislature may provide. The separate supreme court, when so organized, shall not be changed or discontinued by the legislature; the judges thereof shall be so classified that but one of them shall go out of office at the same time, and their term of office shall be the same as provided for the judges of the circuit court. And whenever the legislature may consider it necessary to establish a separate supreme court, they shall have the power to reduce the number of circuit judges to four, and subdivide the judicial number of circuits; but no such subdivision or reduction shall take effect until after the expiration of the term of some one of the said judges, or until a vacancy occur by some other means.] See Amendment.

SEC. 5.—**Judicial Circuits.**—The state shall be divided into five judicial circuits, to be composed as follows: The First circuit shall comprise the counties of Racine, Walworth, Rock and Green. The Second circuit, the counties of Milwaukee, Waukesha, Jefferson and Dane. The Third circuit, the counties of Washington, Dodge, Columbia, Marquette, Sauk and Portage. The Fourth circuit, the counties of Brown, Manitowoc, Sheboygan, Fond du Lac, Winnebago and Calumet. And the Fifth circuit shall comprise the counties of Iowa, La Fayette, Grant, Crawford and St. Croix; and the county of Richland shall be attached to Iowa, the county of Chippewa to the county of Crawford, and the county of La Pointe to the county of St. Croix, for judicial purposes, until otherwise provided by the legislature.

SEC. 6.—**Change of Circuits.**—The legislature may alter the limits, or increase the number of circuits, making them as compact and convenient as practicable, and bounding them by county lines; but no such alteration or increase shall have the effect to remove a judge from office. In case of an increase of circuits, the judge or judges shall be elected as provided in this constitution, and receive a salary not less than that herein provided for judges of the circuit court.

SEC. 7.—**Circuit Judges, Election, Etc.**—For each circuit there shall be a judge chosen by the qualified electors therein, who

shall hold his office as is provided in this constitution, and until his successor shall be chosen and qualified; and after he shall have been elected, he shall reside in the circuit for which he was elected. One of said judges shall be designated as chief justice, in such manner as the legislature shall provide. And the legislature shall, at its first session, provide by law, as well for the election of, as for classifying the judges of the circuit court, to be elected under this constitution in such a manner that one of said judges shall go out of office in two years, one in three years, one in four years, one in five years and one in six years, and thereafter the judge elected to fill the office shall hold the same for six years.

SEC. 8.—**Jurisdiction of Circuit Courts.**—The circuit courts shall have original jurisdiction in all matters, civil and criminal, within this state, not excepted in this constitution, and not hereafter prohibited by law, and appellate jurisdiction from all inferior courts and tribunals, and a supervisory control over the same. They shall also have the power to issue writs of *habeas corpus*, *mandamus*, injunction, *quo warranto*, *certiorari*, and all other writs necessary to carry into effect their orders, judgments and decrees, and give them a general control over inferior courts and jurisdictions.

SEC. 9.—**Elections.—Vacancies.**—When a vacancy shall happen in the office of judge of the supreme or circuit courts, such vacancy shall be filled by an appointment of the governor, which shall continue until a successor is elected and qualified; and when elected, such successor shall hold his office the residue of the unexpired term. There shall be no election for a judge or judges at any general election for state or county officers, nor within thirty days either before or after such election.

SEC. 10.—**Salary.—Eligibility.**—Each of the judges of the supreme and circuit courts shall receive a salary, payable quarterly, of not less than one thousand five hundred dollars annually; they shall receive no fees of office, or other compensation than their salaries; they shall hold no office of public trust, except a judicial office, during the term for which they are respectively elected, and all votes for either of them, for any office except a judicial office given by the legislature or the people, shall be void. No person shall be eligible to the office of judge, who shall not, at

the time of his election, be a citizen of the United States, and have attained the age of twenty-five years, and be a qualified elector within the jurisdiction for which he may be chosen.

SEC. 11.—**Terms of Court.—Change of Judges.**—The supreme court shall hold at least one term annually, at the seat of government of the state, at such time as shall be provided by law, and the legislature may provide for holding other terms, and at other places, when they may deem it necessary. A circuit court shall be held at least twice in each year, in each county of this state, organized for judicial purposes. The judges of the circuit court may hold courts for each other, and shall do so when required by law.

SEC. 12.—**Clerks of Courts.**—[There shall be a clerk of the circuit court chosen in each county organized for judicial purposes, by the qualified electors thereof, who shall hold his office for two years, subject to removal, as shall be provided by law. In case of a vacancy, the judge of the circuit court shall have the power to appoint a clerk, until the vacancy shall be filled by an election. The clerk thus elected or appointed shall give such security as the legislature may require; and when elected, shall hold his office for a full term. The supreme court shall appoint its own clerk, and the clerk of a circuit court may be appointed clerk of the supreme court.] See Amendment.

SEC. 13.—**Removal of Judges.**—Any judge of the supreme or circuit court may be removed from office by address of both houses of the legislature, if two-thirds of all the members elect to each house concur therein; but no removal shall be made by virtue of this section, unless the judge complained of shall have been served with a copy of the charges against him as the ground of address, and shall have had an opportunity of being heard in his defense. On the question of removal, the ayes and noes shall be entered on the journals.

SEC. 14.—**Judges of Probate.**—There shall be chosen in each county, by the qualified electors thereof, a judge of probate, who shall hold his office for two years, and until his successor shall be elected and qualified, and whose jurisdiction, powers and duties shall be prescribed by law. *Provided, however,* That the legislature shall have power to abolish the office of judge of probate in any county, and to confer probate powers upon such inferior courts as may be established in said county.

SEC. 15.—**Justices of the Peace.**—The electors of the several towns, at their annual town meetings, and the electors of

cities and villages, at their charter elections, shall, in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be for two years, and until their successors in office shall be elected and qualified. In case of an election to fill a vacancy occurring before the expiration of a full term, the justice elected shall hold for the residue of the unexpired term. Their number and classifications shall be regulated by law. And the tenure of two years shall in no wise interfere with the classification in the first instance. The justices thus elected shall have such civil and criminal jurisdiction as shall be prescribed by law.

SEC. 16.—**Arbitration Tribunals.**—The legislature shall pass laws for the regulation of tribunals of conciliation, defining their powers and duties. Such tribunals may be established in and for any township, and shall have power to render judgment to be obligatory on the parties, when they shall voluntarily submit their matter in difference to arbitration, and agree to abide the judgment, or assent thereto in writing.

SEC. 17.—**Style of Writs, etc.**—The style of all writs and process shall be, "The state of Wisconsin." All criminal prosecutions shall be carried on in the name and by the authority of the same; and all indictments shall conclude against the peace and dignity of the state.

SEC. 18.—**Tax on Civil Suits.**—The legislature shall impose a tax on all civil suits commenced or prosecuted in the municipal, inferior, or circuit courts, which shall constitute a fund to be applied toward the payment of the salary of the judges.

SEC. 19.—**Testimony in Suits in Equity.**—The testimony in causes in equity shall be taken in like manner as in cases at law; and the office of master in chancery is hereby prohibited.

SEC. 20.—**Rights of Suitors.**—Any suitor in any court in this state shall have the right to prosecute or defend his suit either in his own proper person or by an attorney or agent of his choice.

SEC. 21.—**Publication of Laws.**—The legislature shall provide by law for the speedy publication of all statute laws, and of such judicial decisions made within the state, as may be deemed expedient. And no general law shall be in force until published.

SEC. 22.—**Revision of Code.**—The legislature, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, whose duty it shall be to inquire into, revise, and simplify the rules of practice, pleadings, forms, and proceedings, and arrange a system adapted to the courts of record of this state, and report the same to the legislature, subject to their modification and adoption; and such commission shall terminate upon the rendering of the report, unless otherwise provided by law.

SEC. 23.—**Court Commissioners.**—The legislature may provide for the appointment of one or more persons in each organized county, and may vest in such persons such judicial powers as shall be prescribed by law. *Provided*, That said power shall not exceed that of a judge of the circuit court at chambers.

ARTICLE VIII.

FINANCE.

SECTION 1.—**Uniform Taxation.**—The rule of taxation shall be uniform, and taxes shall be levied upon such property as the legislature shall prescribe.

SEC. 2.—**Appropriations.**—[No money shall be paid out of the treasury except in pursuance of an appropriation by law.] See Amendment.

SEC. 3.—**Credit of State.**—The credit of the state shall never be given or loaned in aid of any individual, association, or corporation.

SEC. 4.—**Contracting Debts.**—The state shall never contract any public debt, except in the cases and manner herein provided.

SEC. 5.—**Annual Tax.**—The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the state for each year; and whenever the expenses of any year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year.

SEC. 6.—**Limitation on State Debts.**—For the purpose of defraying extraordinary expenditures, the state may contract public debts; but such debts shall never, in the aggregate, exceed one hundred thousand dollars. Every such debt shall be authorized by law, for some purpose or purposes to be distinctly specified therein; and the vote of a majority of all the members elected to each house, to be taken by yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal within five years from the passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes be postponed or diminished, until the principal and interest of such debt shall have been wholly paid.

SEC. 7.—**War Debts.**—The legislature may also borrow money to repel invasion, suppress insurrection, or defend the state in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized or to the repayment of the debt thereby created.

SEC. 8.—**Vote on Fiscal Bills.**—On the passage in either house of the legislature, of any law which imposes, continues or renews a tax, or creates a debt or charge, or makes, continues or renews an appropriation of public or trust money, or releases, discharges or commutes a claim or demand of the state, the question shall be taken by yeas and nays, which shall be duly entered on the journal; and three-fifths of all the members elected to such house shall in all such cases be required to constitute a quorum therein.

SEC. 9.—**Evidences of Debt.**—No scrip, certificate or other evidence of state debt whatsoever, shall be issued, except for such debts as are authorized by the sixth and seventh sections of this article.

SEC. 10.—**Internal Improvements.**—The state shall never contract any debt for works of internal improvement, or be a party in carrying on such works; but whenever grants of land or other property shall have been made to the state, especially dedicated by the grant to particular works of internal improvement, the state may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

ARTICLE IX.

EMINENT DOMAIN AND PROPERTY OF THE STATE.

SECTION 1.—**Jurisdiction on Rivers, etc.**—The state shall have concurrent jurisdiction on all rivers or lakes bordering on this state, so far as such rivers or lakes shall form a common boundary to the state, and any other state or territory now or hereafter to be formed and bounded by the same. And the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the state as to the citizens of the United States, without any tax, impost, or duty therefor.

SEC. 2.—**Territorial Property.**—The title of all lands and other property, which have accrued to the territory of Wisconsin, by grant, gift, purchase, forfeiture, escheat or otherwise, shall vest in the state of Wisconsin.

SEC. 3.—**Escheats.**—The people of the state, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the state; and all lands, the title to which shall fail from a defect of heirs, shall revert or escheat to the people.

ARTICLE X.

EDUCATION.

SECTION 1.—**State Superintendent.**—The supervision of public instruction shall be vested in a state superintendent, and such other officers as the legislature shall direct. The state superintendent shall be chosen by the qualified electors of the state, in such manner as the legislature shall provide; his powers, duties and compensation shall be prescribed by law. *Provided*, That his compensation shall not exceed the sum of twelve hundred dollars annually.

SEC. 2.—**School Fund.**—The proceeds of all lands that have been or hereafter may be granted by the United States to this state, for educational purposes (except the lands heretofore

granted for the purposes of a university), and all moneys, and the clear proceeds of all property, that may accrue to the state by forfeiture or escheat, and all moneys which may be paid as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, and all moneys arising from any grant to the state where the purposes of such grant are not specified, and the five hundred thousand acres of land to which the state is entitled by the provisions of an act of congress, entitled "An act to appropriate the proceeds of the sale of public lands, and to grant pre-emption rights," approved the fourth day of September, one thousand eight hundred and forty-one, and also the five *per centum* of the net proceeds of the public lands to which the state shall become entitled on her admission into the Union (if congress shall consent to such appropriation of the two grants last mentioned), shall be set apart as a separate fund, to be called the school fund, the interest of which, and all other revenues derived from the school lands, shall be exclusively applied to the following objects, to-wit:

1. To the support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus therefor.

2. The residue shall be appropriated to the support and maintenance of academies and normal schools, and suitable libraries and apparatus therefor.

Sec. 3.—**District Schools.**—The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable, and such schools shall be free and without charge for tuition to all children between the ages of four and twenty years, and no sectarian instruction shall be allowed therein.

Sec. 4.—**Annual School Tax.**—Each town and city shall be required to raise, by tax, annually, for the support of common schools therein, a sum not less than one-half the amount received by such town or city respectively for school purposes, from the income of the school fund.

Sec. 5.—**School Fund.**—Provision shall be made by law for the distribution of the income of the school fund among the several towns and cities of the state, for the support of common

schools therein, in some just proportion to the number of children and youth resident therein, between the ages of four and twenty years, and no appropriation shall be made from the school fund to any city or town for the year in which said city or town shall fail to raise such tax, nor to any school district for the year in which a school shall not be maintained at least three months.

SEC. 6.—**State University.**—Provision shall be made by law for the establishment of a state university, at or near the seat of state government, and for connecting with the same, from time to time, such colleges in different parts of the state as the interests of education may require. The proceeds of all lands that have been or may hereafter be granted by the United States to the state for the support of a university, shall be and remain a perpetual fund to be called the "University Fund," the interest of which shall be appropriated to the support of the state university, and no sectarian instruction shall be allowed in such university.

SEC. 7.—**School and University Land Commissioners.**—The secretary of state, treasurer and attorney-general shall constitute a board of commissioners for the sale of the school and university lands and for the investment of the funds arising therefrom. Any two of said commissioners shall be a quorum for the transaction of all business pertaining to the duties of their office.

SEC. 8.—**Sale of School and University Lands.**—Provision shall be made by law for the sale of all school and university lands, after they shall have been appraised, and when any portion of such lands shall be sold, and the purchase money shall not be paid at the time of the sale, the commissioners shall take security by mortgage upon the land sold for the sum remaining unpaid, with seven per cent. interest thereon, payable annually at the office of the treasurer. The commissioners shall be authorized to execute a good and sufficient conveyance to all purchasers of such lands and to discharge any mortgages taken as security, when the sum due thereon shall have been paid. The commissioners shall have power to withhold from sale any portion of such lands when they shall deem it expedient, and shall invest all moneys arising from the sale of such lands, as well as all other university and school funds, in such manner as the legislature shall provide, and shall give such security for the faithful performance of their duties as may be required by law.

ARTICLE XI.

CORPORATIONS.

SECTION 1.—**Formation of Corporations.**—Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws or special acts enacted under the provisions of this section may be altered or repealed by the legislature at any time after their passage.

SEC. 2.—**Taking of Private Property.**—No municipal corporation shall take private property for public use against the consent of the owner, without the necessity thereof being first established by the verdict of a jury.

SEC. 3.—**Organization of Cities and Villages.**—[It shall be the duty of the legislature, and they are hereby empowered, to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and taxation, and in contracting debts by such municipal corporations.]—See Amendment.

SEC. 4.—**Banks.**—The legislature shall not have power to create, authorize, or incorporate, by any general or special law, any bank or banking power or privilege, or any institution or corporation, having any banking power or privilege whatever, except as provided in this article.

SEC. 5.—**Vote on Question of Banks.**—The legislature may submit to the voters at any general election, the question of "bank or no bank," and if at any such election a number of votes equal to a majority of all the votes cast at such election on that subject shall be in favor of banks, then the legislature shall have power to grant bank charters, or to pass a general banking law, with such restrictions, and under such regulations as they may deem expedient and proper for the security of the bill holders. *Provided*, That no such grant or law shall have any force or effect until the same shall have been submitted to a vote of the electors of the state at some general election, and been approved by a majority of the votes cast on that subject at such election.

ARTICLE XII.

AMENDMENTS.

SECTION 1.—**How Amended.**—Any amendment or amendments to this constitution may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published for three months previous to the time of holding such election. And if in the legislature so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe, and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become part of the constitution. *Provided*, That if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately.

SEC. 2.—**Constitutional Convention.**—If at any time a majority of the senate and assembly shall deem it necessary to call a convention to revise or change this constitution, they shall recommend to the electors to vote for or against a convention at the next election for members of the legislature; and if it shall appear that a majority of the electors voting thereon have voted for a convention, the legislature shall at its next session provide for calling such convention.

ARTICLE XIII.

MISCELLANEOUS PROVISIONS.

SECTION 1.—**Political Year.—General Election.**—[The political year for the state of Wisconsin shall commence on the first Monday in January in each year, and the general election shall be holden on the Tuesday succeeding the first Monday in November in each year.] See Amendment.

SEC. 2.—**Duelists.**—Any inhabitant of this state who may hereafter be engaged, either directly or indirectly, in a duel, either

as principal or accessory, shall forever be disqualified as an elector, and from holding any office under the constitution and laws of this state, and may be punished in such other manner as shall be prescribed by law.

SEC. 3.—**Eligibility to Office.**—No member of congress, nor any person holding any office of profit or trust under the United States (postmasters excepted), or under any foreign power; no person convicted of any infamous crime in any court within the United States; and no person being a defaulter to the United States, or to this state, or to any county or town therein, or to any state or territory within the United States, shall be eligible to any office of trust, profit or honor in this state.

SEC. 4.—**Great Seal.**—It shall be the duty of the legislature to provide a great seal for the state, which shall be kept by the secretary of state, and all official acts of the governor, his approbation of the laws excepted, shall be thereby authenticated.

SEC. 5.—**Voters Residing on Indian Lands.**—All persons residing upon Indian lands within any county of the state, and qualified to exercise the right of suffrage under this constitution, shall be entitled to vote at the polls which may be held nearest their residence for state, United States or county officers. *Provided*, That no person shall vote for county officers out of the county in which he resides.

SEC. 6.—**Legislative Officers.**—The elective officers of the legislature, other than the presiding officers, shall be a chief clerk and a sergeant-at-arms, to be elected by each house.

SEC. 7.—**Division of Counties.**—No county with an area of nine hundred square miles or less, shall be divided or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

SEC. 8.—**County Seats, Removal of.**—No county seat shall be removed until the point to which it is proposed to be removed, shall be fixed by law, and a majority of the voters of the county voting on the question shall have voted in favor of its removal to such a point.

SEC. 9.—**County Officers, Election of.**—All county officers, whose election or appointment is not provided for by this constitution, shall be elected by the electors of the respective counties, or appointed by the board of supervisors, or other county authorities as the legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof as the legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed as the legislature may direct.

SEC. 10.—**Vacancies in Office.**—The legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy where no provision is made for that purpose in this constitution.

ARTICLE XIV.

SCHEDULE.

SECTION 1.—**Change of Government.**—That no inconvenience may arise by reason of a change from a territorial to a permanent state government, it is declared that all rights, actions, prosecutions, judgments, claims and contracts, as well of individuals as of bodies corporate, shall continue as if no such change had taken place, and all such process which may be issued under the authority of the territory of Wisconsin previous to its admission into the Union of the United States, shall be as valid as if issued in the name of the state.

SEC. 2.—**Territorial Laws in Force.**—All laws now in force in the territory of Wisconsin, which are not repugnant to this constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the legislature.

SEC. 3.—**Fines.**—All fines, penalties or forfeitures accruing to the territory of Wisconsin, shall inure to the use of the state.

SEC. 4.—**Actions, Processes, etc., to Continue.**—All recognizances heretofore taken, or which may be taken before the

change from a territorial to a permanent state government, shall remain valid, and shall pass to, and may be prosecuted in the name of the state, and all bonds executed to the governor of the territory, or to any other officer or court, in his or their official capacity, shall pass to the governor or state authority, and their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate or property, real, personal or mixed, and all judgments, bonds, specialties, choses in action, and claims or debts of whatever description, of the territory of Wisconsin, shall inure to and vest in the state of Wisconsin, and may be sued for and recovered in the same manner and to the same extent by the state of Wisconsin as the same could have been by the territory of Wisconsin. All criminal prosecutions and penal actions which may have arisen, or which may arise before the change from a territorial to a state government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the state. All offenses committed against the laws of the territory of Wisconsin, before the change from a territorial to a state government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the state of Wisconsin, with like effect as though such change had not taken place; and all penalties incurred shall remain the same as if this constitution had not been adopted. All actions at law, and suits in equity, which may be pending in any of the courts of the territory of Wisconsin, at the time of the change from a territorial to a state government, may be continued and transferred to any court of the state which shall have jurisdiction of the subject-matter thereof.

Sec. 5.—**Officers to Hold Over.**—All officers, civil and military, now holding their offices under the authority of the United States, or of the territory of Wisconsin, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the state.

Sec. 6.—**Seat of Government.**—The first session of the legislature of the state of Wisconsin shall commence on the first Monday in June next, and shall be held at the village of Madison, which shall be and remain the seat of government until otherwise provided by law.

SEC. 7.—**County Officers to Hold.**—All county, precinct, and township officers shall continue to hold their respective offices, unless removed by the competent authority, until the legislature shall, in conformity with the provisions of this constitution, provide for the holding of elections to fill such offices respectively.

SEC. 8.—**Submission to the President and Congress.**—The president of this convention shall, immediately after its adjournment, cause a fair copy of this constitution, together with a copy of the act of the legislature of this territory, entitled "An act in relation to the formation of a state government in Wisconsin, and to change the time of holding the annual session of the legislature," approved October 27, 1847, providing for the calling of this convention, and also a copy of so much of the last census of the territory as exhibits the number of its inhabitants, to be forwarded to the president of the United States, to be laid before the congress of the United States at its present session.

SEC. 9.—**Submission to the People.**—This constitution shall be submitted at an election to be held on the second Monday in March next, for ratification or rejection, to all white male persons of the age of twenty-one years or upwards, who shall then be residents of this territory and citizens of the United States, or shall have declared their intention to become such in conformity with the laws of congress on the subject of naturalization; and all persons having such qualifications shall be entitled to vote for or against the adoption of this constitution, and for all officers first elected under it. And if the constitution be ratified by said electors, it shall become the constitution of the state of Wisconsin. On such of the ballots as are for the constitution, shall be written or printed the word, "yes;" and on such as are against the constitution, the word, "no." The election shall be conducted in the manner now prescribed by law, and the returns made by the clerks of the boards of supervisors or county commissioners (as the case may be) to the governor of the territory, at any time before the tenth of April next. And in the event of the ratification of this constitution, by a majority of all the votes given, it shall be the duty of the governor of this territory to make proclamation of the same, and to transmit a digest of the returns to the senate and assembly of the state, on the first day of their session. An election

shall be held for governor and lieutenant governor, treasurer, attorney-general, members of the state legislature, and members of congress, on the second Monday of May next, and no other or further notice of such election shall be required.

SEC. 10.—**Congressional Districts.**—Two members of congress shall also be elected on the second Monday of May next; and until otherwise provided by law, the counties of Milwaukee, Waukesha, Jefferson, Racine, Walworth, Rock and Green shall constitute the First congressional district, and elect one member; and the counties of Washington, Sheboygan, Manitowoc, Calumet, Brown, Winnebago, Fond du Lac, Marquette, Sauk, Portage, Columbia, Dodge, Dane, Iowa, La Fayette, Grant, Richland, Crawford, Chippewa, St. Croix and La Pointe shall constitute the Second congressional district, and shall elect one member.

SEC. 11.—**First Election.**—The several elections provided for in this article shall be conducted according to the existing laws of the territory. *Provided*, That no elector shall be entitled to vote, except in the town, ward or precinct where he resides. The returns of election, for senators and members of assembly, shall be transmitted to the clerk of the board of supervisors, or county commissioners, as the case may be, and the votes shall be canvassed, and certificates of election issued, as now provided by law. In the First senatorial district, the returns of the election for senator shall be made to the proper officer in the county of Brown; in the Second senatorial district, to the proper officer in the county of Columbia; in the Third senatorial district, to the proper officer in the county of Crawford; in the Fourth senatorial district, to the proper officer in the county of Fond du Lac; and in the Fifth senatorial district, to the proper officer in the county of Iowa. The returns of the election for state officers and members of congress shall be certified and transmitted to the speaker of the assembly, at the seat of government, in the same manner as the votes for delegate to congress are required to be certified and returned, by the laws of the territory of Wisconsin, to the secretary of said territory, and in such time that they may be received on the first Monday in June next; and as soon as the legislature shall be organized, the speaker of the assembly and the president of the senate shall in the presence of

both houses, examine the returns, and declare who are duly elected to fill the several offices hereinbefore mentioned, and give to each of the persons elected, a certificate of his election.

SEC. 12.—[Is the first apportionment of the state into senate and assembly districts, and is omitted for obvious reasons.]

SEC. 13.—**Common Law in Force.**—Such parts of the common law as are now in force in the territory of Wisconsin, not inconsistent with this constitution, shall be and continue part of the law of this state until altered or suspended by the legislature.

SEC. 14.—**When to Assume Office.**—The senators first elected in the even numbered senate districts, the governor, lieutenant governor, and other state officers first elected under this constitution, shall enter upon the duties of their respective offices on the first Monday of June next, and shall continue in office for one year from the first Monday of January next. The senators first elected in the odd numbered senate districts, and the members of the assembly first elected shall enter upon their duties respectively on the first Monday of June next, and shall continue in office until the first Monday in January next.

SEC. 15.—**Oath of Office.**—The oath of office may be administered by any judge or justice of the peace, until the legislature shall otherwise direct.

We, the undersigned, members of the convention to form a constitution for the state of Wisconsin, to be submitted to the people thereof for their ratification or rejection, do hereby certify that the foregoing is the constitution adopted by the convention.

In testimony whereof we have hereunto set our hands, at Madison, the first day of February, A. D. eighteen hundred and forty-eight.

MORGAN L. MARTIN,

President of the Convention and Delegate from Brown County.

THOS. MCHUGH, *Secretary.*

Calumet—
G. W. FEATHERSTONHAUGH.

Columbia—
JAMES T. LEWIS.

Crawford—
DANIEL G. FENTON.

Green—
JAMES BIGGS.

Iowa—
CHARLES BISHOP,
STEPHEN P. HOLLENBECK,
JOSEPH WARD.

Dane—
WILLIAM H. FOX,
CHARLES M. NICHOLS,
WILLIAM A. WHEELER.
Dodge—
STODDARD JUDD,
CHARLES H. LARRABEE,
SAMUEL W. LYMAN.
Fond du Lac—
SAMUEL W. BEALL,
WARREN CHASE.
Grant—
ORSAMUS COLE,
GEORGE W. LAKIN,
ALEXANDER D. RAMSEY,
WILLIAM RICHARDSON,
JOHN HAWKINS ROUNDTREE.
Portage—
WILLIAM H. KENNEDY.
Racine—
ALBERT G. COLE,
STEPHEN A. DAVENPORT,
ANDREW B. JACKSON,
FREDERICK S. LOVELL,
SAMUEL R. MCCLELLAN,
JAMES D. REYMERT,
HORACE T. SANDERS,
THEODORE SECOR.
Rock—
ALMERIN M. CARTER,
JOSEPH COLLEY,
PAUL CRANDALL,
EZRA A. FOOT,
LOUIS P. HARVEY,
EDWARD V. WHITON.
Sheboygan—
SILAS STEADMAN.
Jefferson—
JONAS FOLTS,
MILO JONES,
THEODORE PRENTISS,
ABRAM VANDERPOOL.
La Fayette—
CHARLES DUNN,
JOHN O'CONNOR,
ALLEN WARDEN.
Milwaukee—
JOHN L. DORAN,
GARRETT M. FITZGERALD,
ALBERT FOWLER,
BYRON KILBOURN,
RUFUS KING,
CHARLES H. LARKIN,
MORITZ SCHŒFFLER.
Walworth—
EXPERIENCE ESTABROOK,
GEORGE GALE,
JAMES HARRINGTON,
AUGUSTUS C. KINNE,
HOLLIS LATHAM,
EZRA A. MULFORD.
Washington—
JAMES FAGAN,
PATRICK PENTONY,
HARVEY G. TURNER.
Waukesha—
SQUIRE S. CASE,
ALFRED L. CASTLEMAN,
PETER D. GIFFORD,
ELEAZOR ROOT,
GEORGE SCAGEL.
Winnebago—
HARRISON REED.

AMENDMENTS.

ARTICLE I.

[Section 8, as amended by a vote of the people at the general election, November 8, 1870.]

SECTION 8.—**Criminal Offenses, etc.**—No person shall be held to answer for a criminal offense without due process of law, and no person, for the same offense, shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall before conviction be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require it.

ARTICLE III.

[Section 1, as amended by a vote of the people at the general election, November 7, 1882.]

SECTION 1.—**Who Are Qualified Electors.**—Every male person of the age of twenty-one years or upwards belonging to either of the following classes who shall have resided within the state for one year next preceding any election, and in the election district where he offers to vote such time as may be prescribed by the legislature, not exceeding thirty days, shall be deemed a qualified elector at such election:

1. Citizens of the United States.

2. Persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

3. Persons of Indian blood who have once been declared by law of congress to be citizens of the United States, any subsequent law of congress to the contrary notwithstanding.

4. Civilized persons of Indian descent not members of any

tribe; *provided*, that the legislature may at any time extend by law the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall be submitted to a vote of the people at a general election and approved by a majority of all the votes cast at such election; *and provided further*, that in incorporated cities and villages, the legislature may provide for the registration of electors and prescribe proper rules and regulations therefor.

ARTICLE IV.

[Sections 4, 5, 11, and 21, as amended by a vote of the people at the general election, November 8, 1881.]

SECTION 4.—**Election of Assemblymen.**—The members of the assembly shall be chosen biennially, by single districts, on the Tuesday succeeding the first Monday of November after the adoption of this amendment, by the qualified electors of the several districts; such districts to be bounded by county, precinct, town or ward lines, to consist of contiguous territory, and to be in as compact form as practicable.

SECTION 5.—**Election of Senators.**—The senators shall be elected by single districts of convenient contiguous territory, at the same time and in the same manner as members of the assembly are required to be chosen, and no assembly district shall be divided in the formation of a senate district. The senate districts shall be numbered in the regular series, and the senators shall be chosen alternately from the odd and even numbered districts. The senators elected, or holding over at the time of the adoption of this amendment, shall continue in office till their successors are duly elected and qualified; and after the adoption of this amendment, all senators shall be chosen for the term of four years.

SECTION 11.—**Meeting of Legislature.**—The legislature shall meet at the seat of government at such time as shall be provided by law, once in two years and no oftener, unless convened by the governor in special session, and when so convened no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened.

SECTION 21.—**Compensation.**—Each member of the legislature shall receive for his services, for and during a regular session the sum of five hundred dollars, and ten cents for every mile he

shall travel in going to and returning from the place of meeting of the legislature on the most usual route. In case of an extra session of the legislature, no additional compensation shall be allowed to any member thereof, either directly or indirectly, except for mileage, to be computed at the same rate as for a regular session. No stationery, newspapers, postage or other perquisite, except the salary and mileage above provided, shall be received from the state by any member of the legislature for his services, or in any other manner as such member.

[Sections 31 and 32, as amended by a vote of the people at the general election, November 7, 1871, and amendment to section 31, adopted November 8, 1892.]

SECTION 31.—**Special Legislation.**—The legislature is prohibited from enacting any special or private laws in the following cases: 1st. For changing the name of persons or constituting one person the heir-at-law of another. 2d. For laying out, opening or altering highways, except in cases of state roads extending into more than one county, and military roads, to aid in the construction of which lands may be granted by congress. 3d. For authorizing persons to keep ferries across streams, at points wholly within this state. 4th. For authorizing the sale or mortgage of real or personal property of minors or others under disability. 5th. For locating or changing any county seat. 6th. For assessment or collection of taxes or for extending the time for collection thereof. 7th. For granting corporate powers or privileges, except to cities. 8th. For authorizing the apportionment of any part of the school fund. 9th. For incorporating any city, town or village, or to amend the charter thereof.

SECTION 32.—**General Laws.**—The legislature shall provide general laws for the transaction of any business that may be prohibited by section thirty-one of this article, and all such laws shall be uniform in their operations throughout the state.

ARTICLE V.

[Sections 5 and 9, as amended by a vote of the people at the general election, November 2, 1869.]

SECTION 5.—**Compensation of Governor.**—The governor shall receive during his continuance in office, an annual compensation of five thousand dollars, which shall be in full for all traveling or other expenses incident to his duties.

SECTION 9.—**Compensation of Lieutenant Governor.**—The lieutenant governor shall receive during his continuance in office, an annual compensation of one thousand dollars.

ARTICLE VI.

[Section 4, as amended by a vote of the people at the general election, November 7, 1882.]

SECTION 4.—**County Officers.**—Sheriffs, coroners, registers of deeds, district attorneys, and all other county officers, except judicial officers, shall be chosen by the electors of the respective counties, once in every two years. Sheriffs shall hold no other office, and be ineligible for two years next succeeding the termination of their offices; they may be required by law to renew their security from time to time, and in default of giving such new security their office shall be deemed vacant, but the county shall never be made responsible for the acts of the sheriff. The governor may remove any officer in this section mentioned, giving to such a copy of the charges against him and an opportunity of being heard in his defense. All vacancies shall be filled by appointment, and the person appointed to fill a vacancy shall hold only for the unexpired portion of the term to which he shall be appointed and until his successor shall be elected and qualified.

ARTICLE VII.

[Section 4, as amended by a vote of the people at the general election, November 6, 1877.]

SECTION 4.—**Supreme Court.**—[The supreme court shall consist of one chief justice and four associate justices, to be elected by the qualified electors of the state. The legislature shall, at its first session after the adoption of this amendment, provide by law for the election of two associate justices of said court, to hold their offices for terms ending two and four years respectively, after the end of the term of the justice of the said court then last to expire. And thereafter the chief justice and associate justices of the said court shall be elected and hold their offices respectively for the term of ten years.] See Amendment below.

[Section 12, as amended by a vote of the people at the general election, November 7, 1882.]

SECTION 12.—**Clerks of Courts.**—There shall be a clerk of the circuit court chosen in each county organized for judicial purposes by the qualified electors thereof, who shall hold his office for

two years, subject to removal as shall be provided by law; in case of a vacancy the judge of the circuit court shall have power to appoint a clerk until the vacancy shall be filled by an election; the clerk thus elected or appointed shall give such security as the legislature may require. The supreme court shall appoint its own clerk and the clerk of the circuit court may be appointed a clerk of the supreme court.

[Section 4, as amended by a vote of the people at an election April 2, 1892.]

SECTION 4—**Supreme Court.**—The chief justice and associate justices of the supreme court shall be severally known as justices of said court with the same terms of office, respectively, as now provided. The supreme court shall consist of five justices (any three of whom shall be a quorum), to be elected as now provided. The justice having been longest a continuous member of the court (or in case of two or more of such senior justices having served for the same length of time, then the one whose commission first expires), shall be ex-officio the chief justice.

ARTICLE VIII.

[Section 2, as amended by a vote of the people at the general election, November 6, 1877.]

SECTION 2.—**Appropriations.**—No money shall be paid out of the treasury, except in pursuance of an appropriation by law. No appropriation shall be made for the payment of any claim against the state, except claims of the United States and judgments, unless filed within six years after the claim accrued.

ARTICLE XI.

[Section 3, as amended by a vote of the people at the general election, November 3, 1874.]

SECTION 3.—**Municipal Indebtedness.**—It shall be the duty of the legislature, and they are hereby empowered to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments, and taxation, and in contracting debts by such

municipal corporations. No county, city, town, village, school district, or other municipal corporation, shall be allowed to become indebted in any manner or for any purpose, to any amount, including existing indebtedness, in the aggregate exceeding five *per centum* on the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness. Any county, city, town, village, school district, or other municipal corporation, incurring any indebtedness as aforesaid, shall, before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on said debt as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same.

ARTICLE XIII.

[Section 1, as amended by a vote of the people at the general election, November 7, 1882.]

SECTION 1.—**Political Year.—Elections.**—The political year for the state of Wisconsin shall commence on the first Monday in January in each year, and the general elections shall be holden on the Tuesday next succeeding the first Monday in November. The first general election for all state and county officers, except judicial officers, after the adoption of this amendment, shall be holden in the year A. D. 1884, and thereafter the general election shall be held biennially. All state, county or other officers elected at the general election in the year 1881, and whose term of office would otherwise expire on the first Monday of January in the year 1884, shall hold and continue in such office respectively, until the first Monday in January in the year 1885.

THE NATIONAL GOVERNMENT.

CHAPTER I.

INTRODUCTION.

The Founding of Our Government.—It is necessary to a good understanding of the government of the United States, especially of its relations to the several states, that the student should constantly keep in mind the historical conditions at, and previous to, the time of the formation of the union.

It will be remembered that the colonies were possessions of Great Britain, but deeming themselves imposed upon by that government, they united their forces and in a combined effort threw off the British yoke.

The unwise course of Great Britain toward the colonies led to that correspondence, and, finally, to that union between them which has proved in a large measure the source of their power and prosperity. Having been accustomed, however, previous to the Revolution, to a separate existence, as each of the thirteen colonies had its distinct government, they still maintained a separate political existence, yet united their counsels and resources for the common defense and general welfare.

From the promulgation of the Declaration of Independence, 1776, until the adoption of the Articles of Confederation, 1781, the colonies maintained separate independent

governments. They were independent nations in every sense of the word, but combined their forces in opposition to their common enemy.

The Continental Congress, made up of delegates sent from the various colonies—or nations—was the active agent of the league. It had only such authority as the delegates from the various states were authorized to grant. Because of the great necessities of the time, this congress exercised powers of a supreme national council. It declared the colonies free and independent states, raised armies, made treaties, and performed the highest acts of sovereign authority.

All this was done without any express delegation of power to the congress, but with the implied sanction of the colonies, who acquiesced in, and approved of the proceedings.

The Articles of Confederation attempted to form a permanent league of the colonies and to prescribe the powers of congress, but each state retained every power and right not expressly delegated to congress, and thus no coercive power was granted congress under the confederation. Congress might declare war, but it depended upon the states to raise an army and navy; it could make treaties, but it depended upon the states whether the treaties should be observed; it could contract debts, and again it depended upon the states whether the debts should be paid. In fact, the government under the Articles of Confederation possessed, in reality, only the power of recommendation.

Said Washington: "In a word, the confederation appears to me to be little more than a shadow without the substance, and congress a nugatory body, their ordinances being little attended to."

The imperfection of the confederation resulted in the formation of the union.

The Federal Constitution.—The constitution of the United States is a formal document which was carefully studied and reduced to writing with the express purpose of making it exact and certain, and within the knowledge of all.

The constitutions of the various states are also written. The constitution is the fundamental, the organic, the supreme law of the United States. It sets forth in writing the principles upon which the government is founded, the powers and duties of its respective departments, and the general manner in which its laws shall be formulated and administered.

Mr. Brice, in his "American Commonwealth," says of our constitution, "After all deductions it ranks above every other written constitution for the intrinsic excellence of its scheme, its adaptation to the circumstances of the people, the simplicity, brevity and precision of its language, its judicious mixture of definiteness in principle, with elasticity in details."

Mr. Ames said in the Massachusetts convention of 1788, "Considered merely as a literary performance, the constitution is an honor to our country. Legislators have at length condescended to speak the language of philosophy."

The Union of the States.—Our present national government, then, was formed by a union of the thirteen states which, previous to the constitution, were independent nations.

The constitution defines the terms upon which this union was formed.

Previous to the constitution the sovereign, the national power was in the various states, or the people of the states, each state maintaining a separate sovereignty.

Upon the formation of the union the several states

yielded up to the United States certain powers, a part of this sovereignty, and the constitution is the contract which grants these powers to the general government.

The United States, therefore, has only such powers as the constitution gives it, while the states have all powers not prohibited them by the constitution, either expressly or by implication.

State Rights.—The United States is a commonwealth of commonwealths, a republic of republics, a state composed of many states.

A vital question for determination has, therefore, been —what rights has the national government and what rights have the state governments.

Some have thought the state paramount to the union. Some have considered that a state, although it had yielded up its sovereignty, might assume it again, should it become dissatisfied and desire to withdraw from the union.

But the better and commonly accepted view is, especially since the civil war, that at the formation of the union it was the intention to establish a nation, the primary principle of which is its right to maintain its own existence. Self-preservation is nature's first law.

Nations necessarily have the right to put down rebellions or dissensions from within, as well as defend from enemies from without, its own borders. The United States, therefore, has all powers necessary to maintain its national existence, and the states have no sovereignty which will interfere with the exercise of this right by the federal government.

No state, therefore, has the right to secede from the union. A state cannot exercise any of the powers which the constitution prohibits it from exercising, either expressly or by necessary implication.

A state may do, however, any act which the constitution does not expressly or by necessary implication prohibit it from doing.

The Preamble.—The purposes for which the government of the United States was established are declared in the preamble to the constitution to have been: To form a more perfect union, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity.

The constitution is consequently to be interpreted with these purposes in view as an ultimate end. The preamble serves as a key, therefore, to its interpretation.

The Divisions of Government.—The government of the United States is composed of three branches, the legislative, executive and judicial, each of which has its separate duties to perform. The purpose of this division is to prevent any one department from exercising too much power, which might result in abuse.

Their Duties.—It is the duty of the legislative department to make the laws; of the executive department to administer and enforce the law, and of the judicial department to determine what the law is in cases which properly come before it. Thus no one department has exclusive power, and each acts as a check upon the other two.

MAP OF WISCONSIN

SHOWING

CONGRESSIONAL DISTRICTS

APPORTIONMENT 1891

WITH POPULATION

POPULATION OF CONGRESSIONAL DISTS.	
1st District	165,926
2d "	166,442
3d "	173,572
4th "	181,975
5 " "	167,579
6 " "	187,001
7 " "	150,331
8 " "	179,408
9 " "	164,777
10 " "	149,869
Total,	1,686,880

CHAPTER II.

THE LEGISLATIVE DEPARTMENT.

Congress.—The legislative powers of the United States are vested by the constitution in congress, which is composed of two legislative bodies, the senate and the house of representatives. As no measure can become a law without the consent of both houses, one acts as a check upon the other, and prevents rash and impolitic legislation.

It is the policy of the government not only to have the two legislative bodies, but to have them as dissimilar as possible. Thus the length of the terms of office, the qualifications and manner of election are different in the two houses, so that they, as far as possible, may be prompted to act by proper motives and not by mere political or selfish influences.

THE HOUSE OF REPRESENTATIVES.

Election of Representatives.—The representatives of the United States are elected for a term of two years by the qualified electors of the state from which they are chosen. [At present the states are divided into congressional districts, as many in each state as the number of representatives to which the state is entitled, and one representative is elected from each district to represent that district.]

They Represent the People.—Thus it is seen that each representative will be qualified to guard closely the interests of the small district from which he comes. His

re-election will depend upon how closely he watches and aids, or retards, legislation which will affect the people whom he represents. The short term of office makes it possible for the people to keep their representatives well under control. The house of representatives, therefore, represents the people. The representatives are, however, subject to the influence of the public mind, and are liable to be carried away by popular excitement and prejudices, but we will see later on that this danger is guarded against in the senate.

Qualifications of Representatives.—No person can be a representative who has not attained the age of twenty-five years, and been seven years a citizen of the United States, and an inhabitant of the state from which he is chosen at the time of his election. Thus a foreigner cannot become qualified until he has been naturalized (which requires a residence of five years) and lived in the United States seven years thereafter. This serves to guard against foreign influence in congress.

Number of Representatives.—The number of representatives is not to exceed one for every thirty thousand population, but each state is entitled to at least one. They are apportioned among the several states in proportion to the population. The census of the United States is therefore taken every ten years, beginning with the year 1790. The apportionment is made according to the census.

Each of the organized territories of the United States is allowed to send a delegate to the house of representatives; he is privileged to address the house, but is not allowed to vote.

[At present (1897) the state of Wisconsin is allowed ten representatives in congress.]

Vacancies.—It is the duty of the state executive to call a special election to fill any vacancy which may occur in any congressional district in the state.

THE SENATE.

How Chosen.—The United States senate is made up of two senators from each state. They are chosen by a joint vote of the two branches of the state legislature, and hold their office for a term of six years. The senate is so divided that about one-third of its membership go out of office every two years, when the positions of the retiring senators are filled by new elections. Two senators from any one state are never in the same group.

State Representatives.—Thus it will be noticed that one state has the same number of votes in the senate as any sister state, regardless of size or population. Rhode Island has two votes in the United States senate as well as New York, although there is a great difference in their population.

The idea is that the senators represent the states and one state has the same interest and rights in the general government as another state. The same reasoning probably accounts for their being elected by the state legislature, and not by the people as are the representatives.

Qualifications of Senators.—The qualifications of members of the senate differ somewhat from the qualifications essential to membership in the house. No person can be a senator who has not attained the age of thirty years, and been nine years a citizen of the United States, and who is not, when elected, an inhabitant of the state from which he is chosen.

Thus the manner of election, length of the term of

office, and qualifications, all tend to make the United States senate a conservative body, which is largely freed from the influence of public sentiment.

Vacancies.—If vacancies happen in the senate by death, resignation, or for any other cause, at a time when the legislature of the state to which such member belongs is not in session, the executive (governor) thereof may make temporary appointments until the next meeting of the state legislature, which must then fill such vacancy.

President of the Senate.—The vice-president of the United States is president of the senate, but as he is not properly a senator, he has no vote unless the senators are equally divided.

CHAPTER III.

THINGS COMMON TO BOTH HOUSES OF CONGRESS.

Officers.—With the exception of the president of the senate, vice-president of the United States, each house chooses its own officers, such as president pro tempore, who is the presiding officer of the senate in the absence of the vice-president; the speaker of the house, who holds a similar position in that body, and the inferior officers, as sergeant-at-arms, clerks, etc., of either house.

Impeachment.—Impeachment is merely an accusation. The constitution gives the house of representatives the sole power of bringing this accusation or impeachment. The officers liable to impeachment are the president, vice-president, and all the civil officers of the United States. The offences for which they may be impeached are treason, bribery, or other high crimes or misdemeanors. Officers of the army and navy are not subject to impeachment, not being "civil officers." They are, however, subject to trial by court martial. In cases of impeachment the house of representatives prefers the charges against the officer and conducts the prosecution, while the United States senate acts as the judges or jurors in the case. In case of the impeachment of the president of the United States, the chief justice of the supreme court presides over the senate in place of the vice-president, as the latter officer, being interested, might not preside impartially.

The judgment, in case of impeachment, requires a two-

thirds vote of the senate to convict, and the punishment, in case of conviction, consists of nothing further than removal from office and disqualification to hold and enjoy any office of honor, trust or profit under the United States. One convicted in the impeachment trial, however, is liable to a separate trial and punishment by a court of law for the same offence. The impeachment trial is a political trial only.

Sessions of Congress.—The constitution provides that congress must meet at least once in every year, and such meeting must be on the first Monday in December, but congress has power to appoint a different day by law.

The president, however, is authorized to convene congress, or either house thereof, in extra session on extraordinary occasions.

Contested Seats.—Each house is judge of elections and qualifications of its own members. Often two or more candidates claim to be elected to the same seat in the senate or house, as the case may be, and the dispute is settled by the branch of congress to which they claim to be elected.

Quorum.—Neither house can transact business unless a majority of its members are present, but a minority may adjourn from day to day, and may be authorized to compel the attendance of absent members.

Rules of Procedure.—Each house may make rules and by-laws by which it shall be governed, may punish its members for improper conduct, and may expel one of its members by a two-thirds vote.

Publicity of Proceedings.—For the purpose of publicity each house is required to keep a record of its proceedings, which shall be published from time to time, excepting such parts as may, for the public good and safety, require secrecy. Ordinarily each house sits with open doors, and the public is at liberty to attend its meetings, and its proceedings are largely reported in the newspapers of the country, but congress may sit with closed doors. The senate holds what are called executive sessions, in which communications of a confidential nature from the president are read and considered. These relate to treaties with foreign countries, nominations to office, etc., and because of their secret nature the proceedings of such sessions are kept in a separate journal not open to the public.

One fifth of the members present in either house may demand the yeas and nays on any question before the house. By this method is made public the way the various members vote on the question, and thus they are made more responsible to those who elect them—their constituents.

Adjournments.—As the senators are elected for a term of six years, and so divided that one-third vacate their seats every two years, and as the representatives are elected for a term of two years, it may be said that the duration of congress is two years, or that every two years we have a new congress.

Neither house, during the session of congress can adjourn for more than three days without the consent of the other house. This prevents the peculiar circumstance which otherwise might happen, of one house holding a session and passing measures when there was no session of the other house to concur in such measures.

In case the two houses cannot agree as to the time of adjournment, the president may adjourn them.

Compensation.—In order that those of limited means may afford to be members of congress, the constitution provides that the members shall receive a salary, which at present is five thousand dollars a year, payable monthly.

If no salary were allowed, only the rich would be able to fill the position.

Privileges of Members.—That legislative business may not be interrupted, senators and representatives are in all cases except treason, felony, and breach of the peace, exempt from arrest during their attendance at congress and in going to and returning from the same.

To induce perfect freedom in debate, members are not to be questioned in any other place than in the legislative hall for anything they may say. In other words, they are not to be charged with libel or slander, or in any other way be made to account for anything said on the floor of either house.

Disability of Members.—To prevent the creation of offices for corrupt and selfish motives, it is wisely provided that no senator or representative can, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which has been created or the salary of which has been increased during such time; and similarly, no person can be a member of congress and at the same time hold any other office under the United States.

The Making of Laws.—In general, all bills, resolutions and orders may become laws in three several ways. They may become laws by being passed by a majority vote of each house and approved by the president; or by being passed by a majority vote of each house and then remaining in the president's hands for ten days, exclusive of Sundays,

without either receiving his approval or veto; or by being passed by a majority vote of each house, vetoed by the president, and again being passed in the same order as before, by each house by a two-thirds vote. This last method is termed passing a bill over the president's veto. A resolution for the adjournment of congress is not subject to the president's veto.

There is only one restriction upon the liberty of either house to originate bills. The senate is not allowed to originate any bill for raising revenue, but it may amend revenue bills which originate in the house. The idea is that as the house is more nearly connected with the people, being their representative body direct, it will be less apt to originate burdensome measures of taxation.

CHAPTER IV.

POWERS OF CONGRESS.

General Observations.—We now come to a subject in the study of the constitution, or of the United States government, which probably is as difficult as any with which we have to deal. It will be well for the student to bear in mind the facts surrounding the adoption of the constitution, that he may more fully comprehend the relations between the states of the Union and the general government of the United States.

The constitution was adopted "in order to form a more perfect union." Before the constitution we had but a league of the thirteen colonies, bound together by the weak "Articles of Confederation." Each colony or state was a *nation* in itself, independent of the other twelve, and in no effectual way bound to unite with them in measures of peace or war. The confederation was largely powerless. It could pass laws but was not empowered to enforce them. It could levy taxes to support armies for the common defense of the states, but could not collect them against the will of any state.

The constitution, however, has changed all this, and at present the United States is by the constitution given all means necessary to enforce all laws which congress has a legal right to pass.

It will be noticed from the above remark that congress has not unlimited power. Congress, or the United States, has only such powers as are given it by the constitution,

either expressly or by necessary implication. The United States has no more right to perform some act not granted to it by the constitution than has a state to perform an act which the constitution of the United States especially prohibits the state from doing. In other words, the United States can do nothing but what the constitution expressly or by necessary implication indicates that it may do, while the states may do anything, as far as the United States constitution is concerned which it is not prohibited in the constitution from doing. The constitution may be looked upon as a contract, an agreement between the general government, the several states and the people, in which the United States is given certain powers and certain duties to perform and is prohibited from assuming others, and the states surrender those powers and duties to the United States, and are also prohibited themselves to assume certain other powers.

Taxation.—There are two principal methods of taxation spoken of in the constitution.

The direct tax is a tax upon specific property, as houses or lands, or upon the person; in the latter case it is called a capitation tax. These direct taxes cannot be levied unless the amount of such tax levied on each state is in proportion to the whole tax levied on all of the states as the population of the particular state considered is to the population of the whole number of states, according to the enumeration of the last preceding census. The income tax was declared illegal in 1895, because of its failure to comply with this provision. The second method is indirect taxation, which is by way of duties, imposts and excises. Duties are taxes levied upon imported or exported goods. Imposts are taxes upon imported goods.

Excises are inland taxes, such as a tax on the manufacture of liquors, cigars, etc.

The constitution provides that congress shall have power to lay and collect taxes, duties, imposts and excises, but all duties, imposts and excises, must be uniform throughout the United States.

It is further provided that no tax or duty shall be laid on goods exported from any state. The reason for this last restriction is readily seen, for if congress were allowed to levy such a tax, it might levy it alone on articles exported from a few, or only one, of the states; as if a tax be levied upon all tobacco exported from any state, only those states which grow tobacco would be taxed.

May Borrow Money.—It is readily seen that in time of war, or of financial difficulties in time of peace, it is absolutely necessary that some other means of raising money, for the time being, than taxation, should be available. Thus it is provided that congress shall have the power to borrow money on the credit of the United States.

Commercial Regulations.—That proper commercial regulations with foreign countries, and uniform regulations between the several states may be insured, it is provided that congress shall have power to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

Naturalization.—Naturalization is the giving to foreigners the rights and privileges of native citizens. As this should be uniform throughout the several states, congress is given power to establish uniform rules of naturalization.

The rules of naturalization prescribed by congress are:

The alien must have resided in the United States at least five years before he may become a citizen, and at least two years before he applies for citizenship he must have declared on oath or affirmation, before a state or United States court, his intention to become a citizen, and to renounce all allegiance to the government of which he is at the time a subject. Upon making his final application, after a residence of five years, he is required to take an oath or affirmation that he will support the constitution of the United States, and that he doth renounce and abjure all allegiance and fidelity to every foreign prince or state; and if he have any title of nobility in the kingdom or state from which he came, he must make an express renunciation of such title.

Bankrupt Laws.—A bankrupt law is a law providing for the release or discharge of a debtor from the legal obligations to pay the full amount of his debts, usually upon a formal surrender of all his present property to trustees for the benefit of his creditors. In order that these laws may be uniform, congress is likewise empowered to enact laws on this subject. But unless congress enacts some such law which is in force and contrary to a similar state law, a state may enact a bankrupt law to operate within its own boundaries. Such state law must not be contrary to any national law on the subject.

Money.—Money may be called a medium of exchange. It may, in addition to the above, be considered as a standard of comparison of values as well. That commerce among the several states and with foreign nations may be facilitated as much as possible for the welfare of all, the constitution provides that congress shall have power to coin money, regulate the value thereof, and of foreign

coin, and fix the standard of weights and measures. It also prohibits the states from coining money or issuing "bills of credit" (paper money). Congress as yet has not seen fit to establish a uniform system of weights and measures of commodities; therefore we find the bushel, barrel, etc., of grains and other products to differ among the various states.

Counterfeiting.—As regards money, counterfeiting is the making of a base or false coin or bill to resemble the genuine for the purpose of defrauding the public.

That our money may be kept genuine and free from counterfeit coins or bills, and that the public may be protected from such frauds, congress is also empowered to provide for the punishment of those who counterfeit the securities (bills) and current coin of the United States, and very stringent laws have been passed for this purpose.

The Postal System.—The authority vested in congress to establish "postoffices and post-roads" has resulted in the establishment of the Postoffice Department of the general government and mail service of almost wonderful proportions.

The railroads of the country are by a special act of congress made post-roads, and at the present time do the greater part of the mail transportation.

Copyrights.—By authority vested in that body by the constitution, congress has passed laws whereby the author of books, maps, charts and musical compositions, and the inventor and designer of prints, cuts and engravings may have his work copyrighted and thus secure to himself the right to print, publish and sell the same, to the exclusion of all others, without his permission, for a period of twenty-eight years, with the privilege of renewal at the end of that time for fourteen years longer.

Patents.—Likewise, for the encouragement of inventions, congress is empowered to enact, and has enacted, laws securing to an inventor of a machine, or the discoverer of any new and useful art, manufacture or composition of matter, the exclusive right to the manufacture and sale of such invention or discovery for the period of fourteen years, and this may be extended for seven years longer when shown that without the neglect or fault of the inventor the latter has not been adequately remunerated for the invention. This privilege is called a patent.

Crimes on the Seas.—For the protection of our commerce on the seas and of citizens going abroad, congress is authorized to punish piracies and felonies committed on the high seas, and offenses against the law of nations.

Piracy is the crime of robbery committed on the sea. Felony is a general word without definite meaning, usually signifying the graver class of crimes; those punishable by death or imprisonment.

The law of nations is that system of principles and usages which regulates their intercourse with one another, and which is recognized by all modern nations. Such are the rules prescribing the binding effect of treaties, national rights upon the seas, and the rights of ships and citizens in foreign ports and countries.

War.—It is wisely provided in our government that congress alone can declare war. In case of actual or threatened invasion a state may defend itself, but in no case may a state institute a war, either against a foreign nation or a sister state. The reason for this is obvious. If the state were permitted to declare war, in many cases the state so declaring would be the only state which would

engage in the war, or the states might war among themselves, or the united strength of all the states might not be available to contend with a common enemy.

But war declared by congress carries with it the united strength of the whole Union.

Letters of Marque and Reprisal.—Letters of marque and reprisal are commissions issued by the government which permit individuals to seize goods and capture vessels belonging to foreign nations or citizens. They are often granted in time of war to injure the enemy, and are sometimes issued in time of peace to redress a wrong done either to a private citizen or the nation by some foreign nation when the latter neglects or refuses to make just compensation. The power to grant these letters is expressly conferred upon congress and as clearly denied to the several states, otherwise a single state by the unwarranted issue of these letters might involve the whole nation in war with a foreign nation. The property thus seized by these privateers is brought into port, condemned by judicial proceedings, and is usually divided, one-half going to the United States and the remainder to the captors, but in certain difficult cases it all goes to the captors.

The Army.—The United States alone has the right to organize and maintain a standing army, but money for that use cannot be appropriated for a longer period than two years. Thus every new congress decides upon the size and support of the army of the nation.

A distinction must be drawn between the army and militia.

An army is an organized body of trained soldiers whose sole duty is such military service, while the militia is made up of citizens of the state, enrolled and trained to military

discipline, but who, under ordinary circumstances, pursue their civil occupations. The militia, although an organization of the state, is yet subject to be called into the United States service by congress, and by a special act the president is authorized to call out the state militia to suppress insurrection or repel invasion. When so called they cease to be state militia and become national militia.

The Navy.—Congress is likewise authorized to provide and maintain a navy, and to make all rules and regulations for the government of the same as well as for the army.

The District of Columbia.—Congress has complete and exclusive jurisdiction of the District of Columbia, makes all of its laws and provides for their enforcement. The district, therefore, has no government of its own. It is not a state nor a territory, nor have its citizens the right to representation in congress, or to vote for president or vice-president.

Likewise congress has a similar jurisdiction over land purchased by the consent of the legislature of the state in which the land lies, for the erection of forts, arsenals, dockyards and other needful buildings. Similarly the inhabitants of such places cease to be citizens of the state and can exercise no civil or political rights under the laws of such state. The purchase does not change the character of the territory or the privileges of its citizens, however, if the consent of the state legislature is not first obtained.

Express and Implied Powers.—As has been already observed, congress or the United States has only such powers as were granted to it by the people in the

constitution. This, however, does not mean that congress has no powers but those named by special grant in the constitution. The constitutional grants of powers to the United States, or its congress, are of two kinds: Those granted by express terms and those granted by necessary implication. Not a few of the powers of the general government are such as must have been intended by the framers of the constitution, and are thus granted by necessary implication. Therefore, when any power is granted to congress there is granted along with that power, by necessary implication, the power to adopt such means as are not especially prohibited, which it may deem proper for the due execution of the express grant. A wise discretion is thus given congress to select the means by which it shall carry into effect the various powers granted to it.

Concurrent Powers of State and Nation.—There are three classes of cases in which the power of legislation is exclusive in congress and therefore prohibited to the states:

1, No state can legislate on any subject when the constitution has in express terms given to congress the exclusive power to legislate regarding that subject; 2, when the states are prohibited by the constitution to legislate as regards a subject and the power is given to congress; 3, when a power of legislation is granted to congress and a similar power, if exercised by the states, would be absolutely and totally repugnant. In all other cases the states may legislate concurrently with congress or, as in some cases, to the exclusion of congress.

CHAPTER V.

RESTRICTIONS ON THE POWERS OF CONGRESS.

Immigration.—The constitution denied to congress the power to prohibit immigration or importation of any persons which any of the states thought proper to admit, prior to 1808; but allowed that congress might levy a tax, not to exceed ten dollars, on any person imported.

Thus was raised the slavery question so early in our governmental history. This provision was inserted in the constitution by the influence of the slave states to the end that the slave trade should receive no blow from congressional legislation. No sooner had this prohibition expired, however, than a law was enacted totally prohibiting the importation of slaves, and in 1820 a law was passed punishing the offense by death.

The Writ of Habeas Corpus.—The term *writ*, as here used, is an order or command of a court in writing, and the expression *habeas corpus* is a legal term which means "you may have the body." By means of this writ, if one is illegally imprisoned or restrained of his liberty, he may be immediately allowed to show, before a judge, that such was the fact, and be forthwith released. For instance, if one were imprisoned without just cause, his attorney or friends should go before a judge and procure one of these writs, which will always be granted; but in time of war, as is hereafter shown, the prisoner may not always be released, even if improperly imprisoned. This writ commands the officer who has the prisoner in charge

to have him brought before the court, whereupon he is given his liberty unless sufficient cause for his retention is shown.

The privileges of this writ can never be suspended, except in time of rebellion or invasion, when the public safety may require it, and then only by congress. It is considered one of the great safeguards of liberty. When the prisoner is retained by United States authorities, or under the apparent authority of United States laws, the writ must issue from some United States court; when under state authority the writ must issue from a state court. In time of war it may be advisable to imprison suspected persons who are thought to be dangerous to the public safety, although the facts of guilt may not be actually known by those who secure the imprisonment of the person.

Bill of Attainder.—Congress can pass no bill of attainder. A bill, of course, is a proposed law. Attainder is the extinguishing of civil rights and capacities. Until recently the English parliament exercised the right of inflicting the punishment of death upon an individual (especially one convicted of treason) and in addition the corruption of blood, the effect of the latter being to confiscate his property to the state and deny to his children or heirs the rights of inheritance. These proceedings by parliament were without trial or means of defense, and were termed "bills of attainder." Because of this prohibition the property of one convicted of treason against the United States can only be forfeited during his lifetime, to return to his heirs at his death. A forfeiture for more than the lifetime of the traitor would work attainder, corruption of blood upon his heirs.

Ex Post Facto Laws.—An *ex post facto law* is one

that makes an act which was done before the law was passed and which was innocent when done, a crime, or which makes the act a greater crime than it was when committed. It is a criminal law and is retroactive, declaring that which was not a crime when done to be a crime because of this later law. Ex post facto laws relate only to crimes and not to civil proceedings; therefore a civil law might declare one liable pecuniarily because of an act done before the law was passed.

No Preference to Ports.—No preference can be given by any regulation of commerce, or revenue, to the ports of one state over those of another; nor can vessels bound to or from one state be obliged to enter, clear or pay duties in another.

The object of this is to prevent any advantage being gained by one state over another. The idea expressed in this clause arose because of the restrictions which England placed upon our commerce when we were subjects of that nation.

Appropriations of Money.—No money can be withdrawn from the treasury but in pursuance of appropriations made by congress, and as a further safeguard a regular statement of the receipts and expenditures of all public money must be kept and published from time to time.

No Nobility.—Titles of nobility are not in harmony with the spirit of equality upon which our governmental system is builded. Therefore, it is provided that the United States can grant no such titles, and the states are likewise prohibited from doing so.

Gifts to Officers of the United States.—That our public officers may be free from foreign influence the constitution prohibits any one who is an officer of the United States, from receiving any present, emolument, office, or title, of any kind whatever from any king, prince or foreign state, without the consent of congress.

CHAPTER VI.

RESTRICTIONS UPON THE STATES.

Must be Expressed.—It is here well to observe that all restrictions of power to be found in the constitution are restrictions on the United States only, and not upon the states, unless the constitution expressly designates, or unless it must necessarily be implied that the restriction is upon the states. Thus the constitution provides that the writ of *habeas corpus* shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it. But as nothing is here said or implied as to the states, they, in their individual capacity, may suspend the writ, or abolish it altogether, provided their own state constitution will allow such a thing to be done. In other words, the states have all powers which the language of the constitution does not expressly, or by necessary implication, deny to them.

Thus the language, "No capitation or other direct tax shall be laid unless in proportion to the census," is a limitation upon congress only and is of no effect as to the states. They may levy direct taxes as their own law may provide.

Cannot Make Treaties.—The states are not allowed to make treaties or enter into any alliance or confederation. The reason for this is obvious. If the states were permitted to make treaties, or form alliances and confederations, there would be no uniformity in our relations with

foreign nations. The various treaties would conflict; therefore, we find this prohibition upon the states.

Not to Issue Letters of Marque and Reprisal.—Letters of marque and reprisal are of such a hostile nature, as we have heretofore seen, that it was deemed wise to prohibit the states from issuing them.

The Coinage of Money.—As has been spoken of before, the states are not allowed to coin money. This was probably for the purpose of insuring a uniform system of money to be issued only by the United States, but in the next paragraph we shall see how the provision failed in effecting its purpose.

Not to Issue Bills of Credit.—Bills of credit of a state are bills issued by the state on its own credit for the purpose and with the intention of circulating them as money. These bills the states are not allowed to emit. But this provision, as well as the one above, failed to accomplish its object, for the states chartered private banking corporations to do business within the state from which they received their charters, and among other things these banks were allowed to issue notes payable on demand at the bank issuing them. These notes circulated as money, and were valued according to the financial standing of the bank issuing them. They were very uncertain in value and were denominated "Wild Cat Money." "At times four hundred dollars in this money was insufficient to purchase a pair of boots."

By recent legislation congress has practically prohibited this kind of money by placing a ten per cent tax upon all money issued by state banks.

Gold and Silver as Legal Tender.—The states

are prohibited to make anything but gold and silver coin a legal tender for the payment of debts.

Thus the states cannot force the circulation of paper money. The student will notice, however, that congress can make and has made various forms of money other than gold and silver coin legal tender.

Money which is made a legal tender must be accepted for the payment of debts.

No Bills of Attainder.—Ex Post Facto Laws.—The states as well as the United States are prohibited from passing bills of attainder and *ex post facto* laws.

Such measures are so oppressive that the spirit of liberty of the American people refuses to allow them to either state or nation.

Laws Impairing the Obligation of Contracts.—The states can pass no laws impairing the obligation of contracts, and as the United States is given no power to do so by the constitution, it also has no such right. A law which, in any material sense, changes a contract entered into by the parties to it, impairs its obligation and the law is void. Thus the contract would be impaired if the time of performance, conditions, rate of interest, or any other of its features, be changed by the law from what the contract itself imposed. But the contract is not considered impaired by a law which alters the method of its enforcement in the courts of law, or which shortens or changes in any way the time or manner of bringing suit to enforce the contract.

Duties on Imports and Exports.—Without the consent of congress, no state can lay any duty on imports or exports, except what may be absolutely necessary for executing its inspection laws. It will be remembered that

congress is likewise prohibited from laying a duty on exports.

With the consent of congress a state could lay a duty on either imports or exports. But it is provided that any such duty when levied by the consent of congress shall be paid into the treasury of the United States.

Inspection laws are laws to prevent the shipping into or out of the state of diseased meats, animals, or persons, or anything dangerous to commerce. A slight duty is therefore allowed to defray the expenses of the examination of certain articles imported into or exported from the state. The object of this prohibition is to confine to congress the power to lay duties on imports that the system may be uniform throughout the various states, and to prevent the coast states taxing the commerce which passes through their ports to or from the states in the interior.

Tonnage.—No state can, without the consent of congress, lay any duty of tonnage.

Tonnage duty, as used in the constitution, refers to a charge upon ships for entering or trading in or making other use of a harbor, estimated according to the tonnage or size of the ship. The reason for prohibiting the states to make tonnage charges is the same as was given for the prohibition of the states to lay imposts, namely, that the commerce of the whole country may be uniformly under the control of congress; that all duties may be uniform throughout the several states, and that the states having harbors may not tax goods necessarily passing by way of such harbors to the states in the interior of the country.

A state may, however, enact laws regulating and providing for wharf and pilot charges.

Troops and War Ships.—The states are prohibited to keep troops or ships of war in time of peace.

The theory of the constitution is to allow to the nation alone the privilege of keeping standing armies. The general government is under obligation to protect the states from invasion or rebellion, and the ability of the United States to do this is thought to be sufficient. Large standing armies usually prove dangerous to republican governments. Much more would be the danger were each of the states to maintain such an army. The same might be said of ships of war.

This provision has no reference to the state militia which the states are permitted to maintain.

Agreements with Other States, or Nations.—No state can enter into any agreement or compact with another state, or with a foreign power, without the consent of congress.

We have already seen that the states can make no treaties, alliances, or confederations. This last prohibition, therefore, completely closes the door upon the states, preventing them from maintaining any political or civil relations with the other states, or with foreign governments, without the consent of congress.

Such agreements are purely national, and therefore are reserved to the United States.

Prohibited from Waging War.—The states cannot engage in war without the consent of congress, unless the state is actually invaded or in such imminent danger as will not admit of delay.

War is for nations alone to engage in and not for parts of nations, as one of the states. Congress alone has power to declare war. If it were otherwise, a single state might, by its folly, involve the whole nation in innumerable wars of great consequence.

CHAPTER VII.

THE EXECUTIVE DEPARTMENT.

Observation.—We have already seen that the government of the United States is divided into three general departments, legislative, executive, and judicial, the first of which, the legislative, we have already considered. The second general department of our government is the executive.

The duty of the legislative department, as we have seen, is to make, or enact, laws for the proper and beneficial government of the people. The particular duty of the executive department is to enforce or administer the laws enacted by congress. The law-making power should be wise, of great experience, of broad knowledge and above all, of sound integrity. Our congress, it will be seen, is well qualified in these particulars. It is made up of men of mature years, who, coming from every section of the country and being selected for their personal ability, necessarily have a diversified knowledge and rich experience; moreover it has the wisdom of the senate and the integrity of the house of representatives.

The experience of the world has shown that a large body of men, like our congress, is a good law-making body, but such an unwieldy body is unfit to enforce or execute the laws.

The laws must be enforced promptly. There must be no hesitation, no delay.

Therefore the execution of the laws is wisely confined

to a separate department in the United States government, the executive department, of which the president of the United States is at the head.

The President.—It is necessary that in the proper execution of the laws there should be no delay, therefore, one man, the president, has complete power in the administration and enforcement of the laws. He is thus clothed with much power and might use it to the injury of the government but for the many checks and safeguards which the constitution wisely provides.

He can only enforce the laws as found in the constitution and enacted by congress. He is not even allowed to determine what the law is in a given case, as that is the particular duty of the judicial department, which has the sole power of interpreting the laws.

Term of Office.—The president is chosen for a term of four years. He may be re-elected for a second term, and not infrequently has this happened, but never has one been elected for a third term. There is no limit, in the constitution, upon the number of terms which a man may serve, but the example which that grand man, the first president, set before his successors in office by refusing to be a candidate for a third term has, in the minds of the people, placed a limit quite as effectual as though it were embodied in the constitution itself. Gen. Grant, one of the most popular of men, was a candidate for re-nomination in 1880, but was defeated in the national republican convention by Mr. Garfield. It is thought that this defeat was a final decision of the people, that no man, however worthy, shall hold more than two terms of the presidency.

A longer term than four years would be conferring more power upon a single man than is thought wise, while

a shorter term would occasion the great expense and loss of time and energy as well as the uncertainty of more frequent presidential campaigns.

Manner of Election.—The voter at a presidential election does not vote directly for the president, but casts his vote for as many *electors* as his state has senators and representatives in congress. These electors meet in their own state and vote by ballot both for a president and for a vice-president, naming separately their choice for president and their choice for vice-president. One at least of the persons for whom each elector votes shall not be an inhabitant of the same state with themselves. These electors make a distinct list of the votes which any candidate receives for president and a separate list of the votes which any candidate receives for vice-president, which lists are signed and certified by the electors and transmitted, sealed to the president of the senate at Washington.

The packages from the several states are opened by the president of the senate in the presence of *both* houses of congress, and there counted. The person receiving the greatest number of votes for president, providing that number be a majority of the whole number of electors, is elected president; but if no one receives a majority, the house of representatives elects a president from among the three receiving the highest number of votes for president in the electoral ballot. The house of representatives, however, in this election votes by states, all of the representatives from each state having only one vote. A quorum for this purpose consists of a member or members from two-thirds of the states and a majority of all the states is necessary for a choice. In case the house of representatives fails for any reason to elect a president, then the vice-president acts as president. The person receiving

the greatest number of votes for vice-president, provided he receives a majority vote of the whole number of electors, is elected vice-president; but if no person receives such a majority, then, from the two highest, the senate elects the vice-president. For this purpose two-thirds of the whole number of senators is necessary for a quorum, and a majority of the whole number is necessary for a choice.

The Electoral College.—These electors chosen from the several states, as many for each state as such state has senators and representatives in congress, are known as the "electoral college."

The members of the electoral college are chosen in such manner as the state legislatures may provide. At present, however, they are elected by the people at what is known as the presidential election. It was the original plan that these electors should vote for president according to their own ideas, but the system of nomination of presidential candidates practiced by the leading political parties, has practically removed this discretion, and the electoral college always selects the candidate nominated by the party by which its members were elected. Thus the electoral college is a mere form of no beneficial significance. The people might as well vote for the president direct as for these electors, and even better, as by this system it is possible for a minority of the whole number of voters in a presidential election to elect a president, because of the fact that each state has as many votes as the state has representatives and senators in congress.

That the electors may be free from bias in favor of officials then in office, it is provided that no member of congress, nor other person holding any office of trust or profit under the United States can be an elector.

When Elected.—The members of the electoral college must be chosen the same day throughout the United States.

Congress has enacted that the electors shall be chosen in each state on the Tuesday next after the first Monday in November, of the year preceding the fourth of March on which the then presidential term expires. It is also provided by law that the electors shall meet in their respective states at a place appointed by the state legislature, on the second Monday in January next after the election at which they are elected, which election occurs every four years.

The president is inaugurated and takes his seat on the fourth of March next after his election; the official year of the United States beginning and ending on that day (March 4th) of each year.

Qualifications of President.—The president must be a natural-born citizen, thirty-five years of age, and must have been for fourteen years a resident within the United States.

The qualifications for vice-president are the same. Thus it will be noticed that no foreign born person can become president. Such a person might be too easily influenced by foreign powers.

The requirement that the president shall be thirty-five years of age insures an executive of mature years and large experience, a qualification quite essential for so responsible a position. The fourteen years' residence, makes certain a sufficient familiarity with our institutions, otherwise a native citizen who had resided much abroad might be qualified for the position.

Vacancies in the Office.—In case of removal, death or other disability of the president, the vice-

president becomes president, and upon the disability of both president and vice-president the office goes in succession for the remainder of the term to the secretary of state, the secretary of the treasury, the secretary of war, the attorney-general, the postmaster-general, the secretary of the navy, the secretary of the interior.

It will be noticed that these are the cabinet officers of the president in the order of the creation of the office, with the exception of the secretary of agriculture, who is not made eligible to the office of president. We cannot be left without a president, therefore, except by the death, resignation, removal or other disability of nine different persons, a circumstance not likely to occur.

His Salary.—The president receives a salary of fifty thousand dollars a year and cannot accept any gift or other emolument from a foreign state, the United States, or any of the several states.

It is well that the president has a salary, otherwise persons of limited means could not afford to accept the office.

The salary should be liberal to enable the chief executive to maintain himself and family with becoming dignity, to the honor of the nation both at home and abroad.

His salary cannot be increased nor diminished during his term of office. Thus he is left free to act according to his own promptings and cannot be influenced by congress with promises of an increased compensation nor by threatened reductions.

Oath of Office.—To insure good faith, it is required that the president, before entering upon the execution of his office, shall take the following oath:—"I do solemnly

swear (or affirm) that I will faithfully execute the office of president of the United States; and will, to the best of my ability, preserve, protect and defend the Constitution of the United States." This oath is administered to him at the inauguration ceremonies by the chief justice of the United States.

CHAPTER VIII.

POWERS AND DUTIES OF THE PRESIDENT.

Commander-in-Chief of the Army.—It is often if not always necessary that military affairs should be placed in the hands of one man that the movements of the army may be directed without the delays common to affairs placed in the hands of a numerous body. The president, therefore, has complete control of the army and navy of the United States and the militia of the several states when called by him into the service of the United States, when they become, by the fact of such call, the militia of the United States. The president is ranked and known in army circles as the commander-in-chief of the United States army.

The commander-in-chief does not necessarily lead the army in battle, nor personally direct its movements, but may delegate these duties to other military officers, as is the practice. All movements of the army are by, and emanate from, the authority of the president as such commander.

The president does not declare war but conducts a war when once declared by congress. In case of invasion, or rebellion, he has authority to drive out the invaders or put down the rebellion without any declaration of war on the part of congress.

The Cabinet.—As is readily understood, the duties of the president are most important and more numerous

than could possibly be performed by one man. To enable the work of his department to be properly performed congress has, as the demands of the country have seemed to require, established executive departments, eight of which have been created up to the present time, each of which has charge of a particular branch of the executive duties.

The departments now established are: Department of State, Department of War, Department of Treasury, Department of Justice, Postoffice Department, Department of the Navy, Department of the Interior and Department of Agriculture.

Each department is presided over by a cabinet officer appointed by the president, with the advice and consent of the senate, who is only removable with the similar advice and consent.

The heads of these departments make up the cabinet officers and are known as the secretary of state, secretary of war, secretary of the treasury, attorney-general, postmaster-general, secretary of the navy, secretary of the interior and secretary of agriculture respectively.

Their duties are to conduct the affairs of their several departments under the direction of the president, and render to the latter such counsel and assistance as they may be able. In the performance of this latter duty they are often called together by the president as a sort of advisory counsel for him wherefore they are called the president's cabinet.

Duties of the Cabinet Officers.—All of the cabinet officers conduct their various departments in compliance with the president's direction. All that they do is under his authority and direction.

The secretary of state, subject to the president's direction, has the general charge of all matters relating to foreign affairs; the secretary of war, of all things relating to the control and disposition of the army and its equipment, the appointment of its officers, the erection of forts, and the charge of other military details both offensive and defensive; the secretary of the treasury, of the finances of the government, the borrowing and issuing and coining of money, the issuing of bonds, the supervision of national banks, and the plans for raising the revenue of the government; the attorney-general conducts and prosecutes all suits to which the United States is a party, and gives legal advice to the president or the heads of other departments whenever requested so to do; the postmaster-general is at the head and the general manager of the postal system of the government; the secretary of the navy has charge of the naval forces of the government, his powers upon the sea being of a similar nature to those of the secretary of war upon land; the secretary of the interior has charge of the erection of public buildings, of copyrights, patents, mines, lands, pensions and the census, as well as many other similar matters; the secretary of agriculture has charge of that department of the government which seeks to advance the agricultural interests of the country. This last department distributes seeds, conducts agricultural experiments, collects statistics, all in the interests of agriculture.

Pardons and Reprieves.—A pardon is a forgiving of an offense whereby one who is accused or convicted of some depredation is exempted from punishment and restored to his former relations to society. A reprieve is a suspension, a delay, for a time, of the execution of a punishment. The president has power to grant reprieves and pardons

for offenses against the United States except in cases of impeachment.

Impeachment cases are of a political nature and if the president had such powers over these cases he would be tempted to save from punishment his political friends.

Power to Make Treaties.—A treaty is an agreement between two or more independent nations. Treaties are entered into for the purpose of establishing peace, commercial or other relations between the nations which make them. All important matters between modern nations are usually regulated by treaty. A treaty in the United States is of the same effect as a law enacted by congress. The president, by and with the advice and consent of two-thirds of the senate, has the power to make all treaties to which the United States is a party.

Appointive Powers.—The president, by and with the advice and consent of the senate, has power to appoint ambassadors, other public ministers, and consuls, judges of the supreme court and all other officers of the United States, whose appointments are not otherwise provided for. Congress may, however, vest power of appointment in the president alone or in the heads of the departments, which has been done as to the large class of inferior offices. Officers appointed by the president, with the concurrence of the senate, can be removed by the president only upon the consent of the senate, excepting the supreme judges, who hold office for life or during good behavior. They are removable only by impeachment proceedings.

The appointive power vested in the president is thus restricted by requiring the consent of the senate to all appointments which congress has not vested in the president or the heads of the departments absolutely. This provi-

sion influences the president to select men of worth and ability that they may meet the approval of the senate.

Vacancies.—As vacancies often occur in those offices to which the president can appoint only with the concurrence of the senate, during a recess of the senate the president has authority to make temporary appointments which expire at the end of the next session, otherwise the offices would be vacant until the senate convened in regular session or was called in special session for the sole purpose of giving its sanction to the president's appointments, which would be an expensive and needless proceeding.

The President's Message.—The president being at the head of the nation and familiar with its conditions and needs, as no other man can be, it is made a part of his duties from time to time to convey to congress such information of the state of the union and recommend such measures and expedients as he shall deem necessary and proper for the furthering of its beneficial legislation. In compliance with this provision of the constitution President Washington and President Adams, at the opening of each session of congress, were in the habit of meeting both houses in person and delivering an address to them, as is now done by the governors of our state. President Jefferson introduced the plan which has been followed ever since, of sending a written message to congress instead of addressing them in person, which document is known as the president's message. These messages are usually sent to congress at the opening of each session and at such other times as the president deems proper.

Special Sessions of Congress.—As we have seen, congress meets regularly on the first Monday in December of each year, and usually continues in session for several

months until its duties are performed, or until the next congress convenes. But it often happens in the affairs of the nation that questions of great importance arise during a recess of congress, demanding the immediate attention of that body, therefore we find that the president may call a special session of congress, or of either house, whenever he thinks the exigencies of the national affairs demand it. It will be remembered, also, that neither house can adjourn *sine die* (without date appointed) without the consent of the other.

In case the two houses cannot agree upon a time of adjournment the president has power to adjourn them.

Receives Ambassadors.—Ambassadors and other public ministers coming from foreign states as the representative of their nation to conduct affairs with our nation, must be received and their credentials examined and approved before they can be allowed to negotiate treaties and perform other duties in the interests of the government by which they are sent. This duty devolves upon our president, who has power to receive or reject a representative coming from a foreign state. This confers upon him great power, for the refusal of a minister may result in hostilities or war between the two countries; and the reception of a minister from a colony in rebellion against the nation to which it is subject recognizes the rebelling colony as an independent nation, which recognition on our part may lead to trouble with the nation to which the colony belongs.

Executes the Laws.—It is the especial duty of the president to see that the laws are faithfully executed and in the performance of this duty he may call to his aid the state militia, or the standing army of the United States,

or both if he deems necessary, nor can he be restrained by the courts, or arrested, imprisoned, or detained while performing the duties of his office.

His person is inviolable in all civil cases.

It is also one of his specially assigned duties to commission all of the officers of the United States. This is done by giving each officer a certificate, signed by the president, which is the written evidence of the appointment.

OUTLINE FOR REVIEW OF FEDERAL OFFICERS.

OFFICERS.	PRESENT INCUMBENT.	TERM.	HOW CHOSEN.	WHEN CHOSEN.	SALARY.	DUTIES.
President						
Vice-President						
Secretary of State						
Secretary of the Treasury						
Secretary of War						
Secretary of the Navy						
Postmaster-General						
Secretary of the Interior						
Attorney-General						
Secretary of Agriculture						

CHAPTER IX.

THE JUDICIAL DEPARTMENT OF OUR GOVERNMENT.

General Observation.—The student will bear in mind that in this country we have a complex government. The state and national institutions are very similar in many respects, and thus we are apt to confuse the two.

For this reason it is well to here note some distinctions. The national government has an executive, a legislative and a judicial department, as we have already seen, and similar departments are to be found in the state governments. The functions of these similar departments are alike in the kind of duties which they have severally to perform, but differ in the sphere or field of action. Thus the president executes the laws of the United States, and the governors those of the states; congress makes the laws of the United States, and the legislatures those of the states; the United States judiciary expound and apply the laws of the United States, and in addition, in certain cases, state laws, while the state judiciary interpret and apply the laws of the states, and to a limited extent, those of the United States, but it is in general sufficient to say that the federal courts enforce United States laws and the state courts the laws of the state. Each citizen is therefore subject to these two systems of government. We are ruled by two systems of laws, made by separate legislative bodies, administered by separate executive officers, and interpreted by distinct courts.

The Laws of the United States.—The federal laws may be divided into three divisions: First, constitutional law, which consists of those prescribed rules of action laid down in the United States constitution. This constitutional law is the highest law of the national government, to which the other two divisions of law must conform, or they will be unconstitutional and therefore not law, but void. Second, treaties with foreign nations and the Indian tribes are a part of the United States law, and of great importance in the commercial world. Third, the statutes passed by congress. The statute law of the United States and the treaty law are of equal rank. If a statute is contrary to a treaty, and is of later date, the treaty is to that extent repealed, but if the treaty is of the later date, then the statute is so far repealed. Both the statute and treaty law are inferior to constitutional law, however.

Moreover, the constitution declares that the constitutional law of the United States, the United States treaty law, and the United States statutes are the *supreme law of the land*, therefore, no state can have or enact any law whatever which is contrary to the United States law, the supreme law of the land.

The Judicial Power of the United States.—We have so far considered the executive and the legislative departments of the federal government. We have now to consider the department of justice, the third general department. The judicial power of the United States is vested, by the constitution, in the supreme court and in such inferior courts as congress may from time to time ordain and establish.

Thus, not only the organization of the supreme court, but also the creation and organization of all of the inferior federal courts were left by the constitution within the pow-

ers of congress. Of the courts inferior to the supreme court, congress has up to the present time established the following: The circuit court of appeals, the circuit courts, the district courts, and the court of claims.

The Territorial Jurisdiction of the Federal Courts.—Disregarding the territories, the United States is at present (1897) divided into sixty-eight districts, and within each district is held, in one or more places, the United States district court for that district. In nearly all cases there is one district judge for each district, but in a few cases one judge presides over two districts, so that there are now only sixty-four district judges for the sixty-eight judicial districts. Generally each state forms one district, but in several of the states there are two districts, and a few of the states have three districts within their borders.

Several of these judicial districts together form a circuit, the United States being divided into nine judicial circuits (one circuit for each supreme justice). Wisconsin is divided into two judicial districts, the eastern and the western, and together with the states of Indiana and Illinois, forms the seventh judicial circuit of the United States. Each of the nine circuits has one of the nine supreme justices allotted to it. In addition to the supreme justice allotted to the circuit, each circuit has two, and some of the circuits three, circuit judges, according to the needs of the circuit. The seventh judicial circuit, to which Wisconsin belongs, has three circuit judges.

Within each of the nine circuits there is also organized (by act of congress, 1891) a circuit court of appeals. The circuit court of appeals for this, the seventh circuit, is held in the city of Chicago, at least once each year. Additional terms of the circuit court of appeals may be held

at other places within the circuit, as the court may determine.

The territorial jurisdiction of the court of claims and of the United States supreme court is co-extensive with the United States itself. These two courts, therefore, have jurisdiction over the whole of the United States.

Jurisdiction of Courts.—There are two classes of jurisdictions, original and appellate.

Original jurisdiction of a court is the right which that court has vested in it to hear and determine a cause in the first instance without a previous trial in a lower court.

Appellate jurisdiction is the right which a court has vested in it to hear and determine causes appealed to it from the decisions of lower courts.

Either of the above jurisdictions may be exclusive or concurrent.

It is exclusive when only the one court has the right to hear and determine the cause either originally or on appeal. It is concurrent when some other court or courts share with it the right to hear and determine the cause originally or on appeal.

The District Courts.—A district court is composed of, or held by, a single judge who holds annually one or more terms at designated places within his district. Wisconsin has two district courts, one for the eastern district, and one for the western district. For the eastern district one term of the district court is held annually at each of the cities of Oshkosh and Milwaukee, and such additional terms as may be necessary. For the western district one term annually of the district court is held in each of the cities of Eau Claire, La Crosse and Madison with additional terms at any of the said places when necessary.

CHAPTER X.

THE JUDICIAL DEPARTMENT OF OUR GOVERNMENT—CONTINUED.

The Circuit Courts.—A circuit court is composed of, or held by, the supreme justice allotted to the circuit, or one of the circuit judges of the circuit, or the district judge of the district in which the circuit court is sitting, or by any two of the above named judges sitting together.

It is the duty of the supreme justices to attend at least one term of the circuit court, in each district of the circuits to which they are severally allotted, during every period of two years.

A district judge, therefore, may hold circuit court, sitting alone, or with either of the other above named judges.

A circuit judge may hold circuit court sitting alone, or with either of the other two. And a supreme justice may hold circuit court sitting alone, or with either of the other two.

Thus it will be noticed that the organization of the circuit court is rather indefinite. Two or more judges may be holding circuit courts within the same circuit at the same time.

In general, it is prescribed that two terms of the circuit court shall be held in each district annually and such additional terms as may be necessary.

The Circuit Court of Appeals.—There is a circuit court of appeals in each circuit composed of three judges, two of whom constitute a quorum.

The chief justice allotted to the circuit, the circuit judges of the circuit, and in case of necessity the district judges of the districts within the circuit may sit in the circuit court of appeals. This court was organized to lighten the labors of the United States supreme court and upon its organization the appellate jurisdiction of the circuit court was discontinued.

The Supreme Court.—The supreme court of the United States is composed of nine judges, six of whom constitute a quorum.

They are officially known as chief justice and associate justices. The supreme court holds one term annually at the seat of government, Washington, D. C., and such additional terms as may be necessary.

Court of Claims.—The court of claims of the United States is composed of one chief justice and four associate justices, any two of whom constitute a quorum to hold court.

The court of claims holds one term of court annually continuing in session until the work of the year is completed.

This court has jurisdiction of various claims against the United States, on behalf of states or private individuals or corporations.

It was organized to keep such litigation from interfering with the business of the other federal courts and to lighten the labors of congress in settling such claims.

The Appointment, Tenure of Office and Salaries of Judges.—All of the federal judges are appointed

by the president, by and with the advice and consent of the senate. They hold during good behavior and receive a salary which cannot be diminished during their continuance in office. The judges are appointed by the president and hold their offices for life or during good behavior, and receive a salary not subject to reduction, that they may be as far as possible removed from the influences of politics, and that they may render their decisions without fear of removal, or a decrease in salary.

The salary of the chief justice of the supreme court is ten thousand five hundred dollars; of the associate justices of the same court, ten thousand dollars each; of the circuit court judges, six thousand dollars; of the district court judges, five thousand dollars; of the court of claims judges, four thousand five hundred dollars.

Extent of the Federal Judicial Power.—The constitution prescribes the exact scope of the powers of the federal courts, beyond which no federal court can go.

First: The judicial power extends to *all cases*, in law and equity, arising under the constitution, the laws (statutes) of the United States, and treaties made, or which shall be made, under their authority.

Thus the federal courts have jurisdiction of any case arising under any of the laws, constitutional, statutory or treaty, of the United States, but the student will here notice that the state courts are not denied jurisdiction of these same cases also, and we therefore find that in many cases the state courts exercise jurisdiction of causes arising under the federal laws concurrently with the United States courts. However, it must further be remembered that congress has power to deny to the state courts any jurisdiction of cases arising under the federal laws and has ex

ercised such right in not a few instances, as in patent and copyright cases, which, along with many others, must be heard in the federal courts.

Second: The federal judicial power extends to all cases of admiralty and maritime jurisdiction, and here, also, we find that congress has given the federal courts exclusive jurisdiction of this class of cases because of their nature and importance.

The federal courts are given jurisdiction of the above two classes of cases because of the nature of the cause of action or suit. Those hereafter to be considered are brought within the federal jurisdiction because of the parties to the suit.

Third: To all cases affecting ambassadors or other public ministers and consuls. It is very proper that this class of cases should be tried in the federal courts alone, to the exclusion of the state courts, and thus congress has so provided. Otherwise ministers from foreign countries would be compelled to sue and be sued in state courts, much to their prejudice, may be, and the annoyance and inconvenience of the federal government.

Fourth: The federal courts have jurisdiction of all cases to which the United States shall be a party.

According to the common law in England the king or sovereign was the state or government, and in addition it was one of the pet theories of the law (most unreasonable, however) that the king (government) could do no wrong, and therefore could not be sued to remedy a wrong which he could not commit. This idea has, along with the common law of England, been adopted as a part of the law of this country.

Thus we find that neither a state nor the United States can be sued in its own courts without its consent. The

most of the states and the United States have provided, by law, the manner in which they may be sued.

Fifth: The federal jurisdiction extends to cases between two or more states. There is no possibility of a state suing another state in its own or any other state court, for no such court would have authority to enforce the judgment.

Previous to the constitution the idea of one state suing another state had never been entertained. Arbitration commissions had made awards as between states, but had no power to enforce the award.

The states, therefore, in adopting this clause of the constitution, certainly yielded up much of their sovereignty as independent states.

Sixth: The federal jurisdiction extends to suits between a state when the state is plaintiff, and the citizens of another state, or foreign citizens or subjects.

As the constitution formerly stood, a private citizen of another state could sue a state in the United States courts.

But this was deemed derogatory to the dignity of the states. The constitution was, therefore, changed by the eleventh amendment so that a state may sue an individual in the federal courts, but cannot be so sued.

Seventh: The federal courts have jurisdiction of cases between citizens of different states.

This was to prevent a party's interests being prejudiced by being obliged to submit to a suit in the courts of the state of his opponent.

Eighth: The federal courts have jurisdiction of causes between citizens of the same state claiming lands under grants of different states.

This is a wise provision, as naturally the courts of a state would tend to support the land grants of its own

state without properly considering the right of the other state to make grants of the same land.

Ninth: The federal courts have jurisdiction of controversies between a state, or the citizens thereof, and foreign states, citizens or subjects.

Thus a foreign state may sue one of the states in the federal courts but cannot itself be sued, obviously. The eleventh amendment also provides that a foreign citizen cannot sue a state in the federal courts, as such a proceeding is thought to be derogatory to the dignity of the state.

Jurisdiction of the Various Federal Courts.— The constitution prescribes that there shall be one supreme court and such inferior courts as congress may from time to time establish.

We have seen that up to the present time (1897) congress has organized and established five federal courts, viz.: the supreme court, the circuit court of appeals, the circuit courts, the district courts and the court of claims.

The whole judicial jurisdiction of the federal courts is vested in no one of these courts, but, as would naturally be expected, is divided amongst them, each court having a particular and designated proportion or part of the federal judicial power.

The court of claims has jurisdiction of suits against the United States for amounts due from the federal government to individuals.

The district and circuit courts have jurisdiction of nearly all other cases originally brought in the federal courts. Certain cases may, however, be brought originally in the supreme court. The constitution provides that the supreme court shall have original jurisdiction of all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party.

The division of this original jurisdiction between the district courts and the circuit courts is very technical and need not be defined here. Suffice it to say that the less important and less difficult cases are supposed to belong to the district courts, and that the more important and more difficult cases belong to the circuit courts. In other words, the circuit courts rank a grade higher than the district courts, although in many respects they have concurrent jurisdiction, in many cases both have jurisdiction of the same causes.

The circuit court of appeals, as its name implies, is purely an appellate court, and hears appeals from the district and circuit courts.

The supreme court, besides its original jurisdiction, has jurisdiction of the more important causes appealed from the circuit and district courts and certain questions referred to it from the circuit court of appeals, and also, in certain cases, it may hear appeals from the decisions of the supreme courts of the states.

The Courts of the Territories.—The courts of the territories are no part of the judicial power granted to the United States by the constitution, but are courts created by congress by virtue of the sovereignty of the United States over its territories. They are, therefore, quite distinct from the federal courts in general, and are entirely under the control of congress. Therefore, the judges of such courts do not necessarily hold their office for life, and have not the rights as to salary which the federal judges enjoy.

OUTLINE FOR REVIEW OF FEDERAL JUDICIAL OFFICERS.

OFFICE	PRESENT INCUMBENT.	TERM.	HOW CHOSEN.	SALARY.	DUTIES.
Chief Justice (1)					
Associate Justices (8)					
Circuit Judges					
District Judges					
Court of Claims Judges (5)					

CHAPTER XI.

GENERAL PROVISIONS.

Official Records, Acts, Etc.—The constitution provides that full faith and credit must be given in each state to the public acts, records, and judicial proceedings of every other state, and authorizes congress to prescribe the manner in which such acts, records, and proceedings shall be proved.

In other words, any act, record or judicial proceeding of a state must be accepted and recognized by other states upon such proof as is prescribed by congress. Congress, in pursuance of this provision, has enacted laws regulating the proof of such acts, records and proceedings.

This provision makes such proceedings of as much effect in the other states, when properly proved, as they have in the state in which they originated.

A judgment sued out in the courts of any state in the union is of as much effect in the state of Wisconsin, when properly proved here, as is a judgment of the courts of our own state.

The Admission of New States.—Congress has the power to admit new states into the union; but to prevent the abuse of this power it is wisely provided that no new states shall be created by the division of larger states or the junction of smaller ones, or parts of states, without the consent of the legislatures of the states concerned.

At the time of the organization of the federal government there was a vast extent of land which the states acquired along with their independence. Since then we have obtained great tracts of territory, from France—Louisiana; from Spain—Florida; from Mexico—California, New Mexico, Utah, and other tracts along the southwestern boundary of the United States; and from Russia—Alaska. Over half of the states of the union have already been formed and admitted out of these acquisitions of territory.

A territory having a sufficient population, wishing to be admitted, holds a constitutional convention, and frames and adopts a constitution which it submits to congress for its approval and with a request that the territory be admitted.

Congress may approve and admit the territory as a new state on equal footing with the other states of the union, or it may refuse admission as it sees fit.

Territories.—The tracts of land belonging to the United States and known as territories are no part of the union, but are rather the property of the union. Congress has power to dispose of the territories, and make all needed rules and regulations for their government.

The territories are governed by means of territorial governments over which congress has complete control and supervision.

Amendments.—The needs of communities and governments change, as do the needs of individuals. Indeed, governments progress in about the same ratio as do its citizens in their individual capacity. It is absolutely necessary, therefore, that some method be had whereby the constitution can be changed, but such changes should not be too easily effected.

The constitution provides for its amendment, but places certain limitations upon the methods by which it is amended that changes may not be rashly adopted.

One important limitation is that no state can be deprived of its equal suffrage in the senate without its consent. Thus, probably, for all time, or as long as this government may last, (may the two be equivalent expressions) the smaller states, Rhode Island, Delaware and others, will have an equal voice in the upper house of congress along with Texas, California and New York, although the latter have many times the population of the former.

Amendments to the constitution may be proposed in two ways; (1) two-thirds of both houses may propose amendments to the constitution, or, (2) upon the application of the legislatures of two-thirds of the states, congress shall call a convention for the purpose of proposing amendments.

There are also two methods by which these proposed amendments may be adopted and made a part of the constitution, and congress is authorized to prescribe which of these two methods shall be used in any particular case. Proposed amendments may be adopted, (1) by being ratified by the legislatures of three-fourths of the several states or, (2) by conventions, called for that purpose, in three-fourths of the states.

The Supreme Law of the Land.—As we have before observed, the laws of the United States are superior to any of the laws of the state; and the constitution, that there may be no misunderstanding, clearly declares that the constitution and the laws of the United States made in pursuance thereof, and all treaties made under the authority of the United States are the *supreme law* of the land; and the judges in every state are bound thereby, anything in

the constitution or laws of any state to the contrary notwithstanding. Clearly the states, by the adoption of this clause of the constitution, acknowledged their subjection to the United States government, and all state rights arguments as to the independence of the states must fall before this clause of the constitution.

The Official Oath.—All members of congress, all members of the state legislatures, and all executive and judicial officers, both of the United States and of the several states, are before entering upon the duties of their respective offices, required to bind themselves, by oath or affirmation, to support the constitution of the United States.

Thus is insured, in some degree at least, the loyalty of all officials to the general government, whether they hold their offices under the United States or the various states.

CHAPTER XII.

BILL OF RIGHTS.

Explanation.—There are many provisions to be found in various parts of the constitution which are intended to preserve to the people certain rights and liberties that shall not be infringed. If these were collected under one head, they might very properly be called the bill of rights, and thus we have designated them.

The constitution as first adopted was considered quite deficient in not having sufficiently secured to the people their rightful immunities, and thus, of the fifteen amendments which have been added to the constitution, thirteen are for the purpose of securing to the people their due rights. It may also be proper to here caution the student again to the effect that all these limitations apply only to the government of the United States, and not to the states, unless the states are especially mentioned in the constitution as being subject to the restrictions or unless the limitation must necessarily be implied to apply to the states. The constitution of the United States, therefore, does not regulate the trials in the state courts, and the provisions regarding trial by jury, indictment by grand jury, and many other provisions have no application to the courts of the states, but only apply to the United States government.

Many of the same provisions, however, are to be found in the state constitution and thus *they* restrict the powers of the state.

Juries.—There are two kinds of juries known to the law, the grand jury and the petit jury. A grand jury consists of from twelve to twenty-three men of the county called together by the court for the purpose of investigating, secretly, charges against people accused of crime. They do not try the accused person, but determine whether there is sufficient evidence against him to warrant a public charge of guilt and a public trial. It takes at least twelve of the grand jury to bring charges, called an indictment, against a person.

The petit (small) jury consists of twelve men who listen to the evidence for and against a person being tried for any crime, and adjudge him guilty or not guilty of the crime according to the evidence in the case; and in civil cases listen to the evidence for and against the parties to the action and render their verdict according to the weight of the evidence.

Indictment by Grand Jury—Except in cases arising in the army or navy, or in the militia when in actual service, no person can be held for a capital or otherwise infamous crime without first being indicted by a grand jury.

Persons who are serving in the the army, navy or militia are tried, when accused of crime, by court martial, which is a summary trial by the officers of the army calculated to preserve discipline. A capital offense is one punishable by death.

Accused persons may be tried for inferior offenses without first being indicted by a grand jury, but in practice, all crimes prosecuted in the United States courts are upon indictments found by a grand jury.

The purpose of the grand jury is to avoid publicly accusing innocent people of offenses without good evidence to sustain the charge.

Twice in Jeopardy.—To prevent the possibility of one's being repeatedly arrested and tried for the same offense, greatly to his annoyance, it is provided that no person shall be subject, for the same offense, to be twice put in jeopardy of life or limb.

If upon trial for a crime he is discharged he can never be re-tried for the same offense, even though very convincing evidence be afterward discovered against him.

Witness Against Himself.—No person is obliged to give testimony in a criminal proceeding against himself.

One who is a witness in a trial of another may refuse to answer questions which in any way tend to show his own guilt.

Due Process of Law.—No person can be deprived of life, liberty, or property without due process of law.

The law prescribes the process whereby one may be convicted of crimes and thereby suffer punishment by being deprived of life, by hanging; or liberty, by imprisonment; or of property, by fine.

But officials who attempt to punish persons without first proceeding according to due process of law become criminals themselves, liable to punishment.

Criminal Prosecutions.—That one accused of crime may not be cast into jail and kept there indefinitely, it is provided that in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the alleged crime was committed.

He shall also be informed of the nature of the crime of which he is accused that he may intelligently conduct his defense and prove his innocence if possible.

He is also allowed to be in court during trial, and the witnesses against him must testify in his presence.

The power of the court is at his command to compel the attendance of witnesses in his favor, and if he has not sufficient means to procure counsel (lawyers) to conduct his defense, they are provided by the court at the expense of the government. These favors are shown one charged with a crime that he may have all proper means of proving his innocence. The law goes upon the theory that all men are innocent until they are proved guilty. The prosecution must prove his guilt; he is not compelled to prove his innocence.

Trial by Jury.—The trial of all crimes, except in cases of impeachment and trials of a military nature, are by jury held in the state where the crime was committed.

The right of trial by jury is one of the great safeguards to popular liberty. Twelve of one's own neighbors are not apt to find him guilty of a crime unless he committed it. Trial by jury was one of the things secured by the people of England with the Magna Charta, and has been greatly cherished by those who have succeeded to the liberties granted by that great charter.

Freedom from Oppression.—Persons accused of crimes, upon being arrested are, unless the offense is of too grave a nature, allowed to obtain their liberty until the trial is had, by giving bail, which is a sort of security wherein some party becomes liable to pay into court a certain sum of money if the accused is not in court on the day set for the trial.

That the amount of the bail may not be placed so high as to practically prevent a poor person from being set at liberty by means of bail, it is provided that excessive bail shall not be required.

That persons may not be imprisoned because unable to pay heavy fines, it is provided that excessive fines shall not be imposed.

In addition to these two safeguards, is the provision that no cruel and unusual punishments shall be inflicted. Criminals cannot be put to death by torture or subjected to unusual or inhuman treatment.

Again I will remind you that all this refers to the United States government and trials in the United States courts, and not to the state and its courts.

Treason.—The common law as administered in England at the time of the organization of our government, declared many slight offenses or crimes to be treason against the king, and the punishment of treason was very cruel and barbarous, the body of the traitor being dismembered and mutilated beyond recognition. The punishment extended also to his relatives according to the principles of attainder, and his property was forfeited.

With us a spirit of moderation prevails voiced by our constitution, which recognizes only two offenses to be treason, (1) levying war against the United States, and (2) adhering to the enemies of the United States by giving such enemies aid and comfort. Nothing else can be treason against the federal government.

Furthermore, that one may not be found guilty of treason on slight testimony, it is prescribed that no person can be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The punishment of treason is left to congress to prescribe, but it cannot work attainder or forfeiture of property for a longer time than the life of the person attainted, and congress has enacted that no conviction shall work

corruption of blood, or any forfeiture of estate or property. Thus the rigor of the old common law is entirely obviated.

Interstate Privileges and Immunities.—That unjust and unreasonable discrimination may not be practiced by any of the states against citizens of the other states, it is vouchsafed that the citizens of each state are entitled to all privileges and immunities of citizens in the several states. Thus is secured to the citizens of any of the states the right to pass through, to sue in the courts of, to own, purchase and dispose of property in, to reside in, to pursue any legal business in, any other state of the union, along with many other rights of a similar nature.

These privileges are in the most of the states allowed to foreigners and foreign corporations as well as citizens of the other states, but discriminations could be made by any of the states, at their pleasure, against aliens or corporations, as they are not citizens, and therefore not included in this provision.

CHAPTER XIII.

BILL OF RIGHTS—CONTINUED.

Requisition of Criminals Fleeing From Justice.—It is a common thing for criminals to flee from the state or nation in which they perpetrated their crime, into a foreign state or nation to avoid being apprehended by the officers of the law of the country from which they have fled.

Nations often have treaty arrangements whereby criminals of the graver kinds may be taken in the foreign country and returned for trial and punishment. Such criminals are said to be extradited, and the treaty with the foreign country by means of which they are permitted to be brought back for punishment is termed an extradition treaty.

For many purposes the various states of the union bear a similar relation to each other as do foreign nations. That none of the states can be an asylum for fugitives from justice from another state the constitution provides, that a person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime.

The method pursued, when a criminal succeeds in escaping into another state, to get him back for trial, is to make application to the governor of the state from which

he has fled for what are called requisition papers. These are papers whereby this governor requests the governor of the state in which the criminal is found, to order his arrest and delivery to the officials of the state against whose laws the criminal offended.

Republican Form of Government Guaranteed.—The United States guarantees to every state in the union a republican form of government, and will protect each of them against invasion, and on application of the legislature, or the executive (when the legislature cannot be convened), against domestic violence.

No state, therefore, can be admitted into the union unless its government is republican, and no state of the union can change its government to any other than its present republican form, and should one of them attempt to do so, it would be the duty of congress to interfere and declare the change void.

Religion and Government.—Many of the colonies of this country were formed of people who had fled from the religious persecutions of the Old World.

Although in a few cases the colonies established or continued what might be called a government religion or church to which all office-holders and voters or citizens of the colony must belong, yet in general there prevailed the idea that the church and the state, or government, should be absolutely independent of each other, and in accordance with this the constitution as originally adopted prescribed that no religious test should ever be required as a qualification to any office or public trust under the United States.

But this did not cover the whole ground. The people were not yet secure from a government religion and thus

the first amendment which declares that congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, was enacted.

With us, therefore, one is left absolutely free to believe in whatever faith his inclination dictates, but this must not be understood as including too much.

One may not, even here, follow an illegal practice under the pretense that it is his religion.

The Mormons, therefore, may believe polygamy to be right, and no one will or can object, but the practice of polygamy, even among Mormons, will be punished.

Freedom of Speech, Assembly and Petition.—Congress can make no law abridging the freedom of speech, or the freedom of the press, or the right of the people to assemble in public meetings, or the right to petition the government for redress of grievances.

Although congress is thus restricted from passing laws regarding these privileges, yet one is not hereby licensed to abuse them.

One may say, or publish, what he chooses, but he is held accountable by law if he slanders or libels another.

Public meetings may be held, but disorderly ones will not be allowed.

Under the tyranny of the early English kings these privileges of the people were greatly restricted. At times, one could not safely speak disparagingly of one in authority.

The states, however, it will be noticed, are left free to make what regulations they may like regarding these privileges, as the above restrictions apply only to the federal congress, or government, as do nearly all of the amendments to the constitution.

The Right to Bear Arms.—It will be remembered that the first article of the constitution prohibits the states from keeping troops, or ships of war, without the previous consent of congress.

The troops herein contemplated were standing armies only, but that it might not be misinterpreted, the second amendment secures to the people the right to keep and bear arms and declares the truth that a well-regulated militia is a necessity to the security of a free state.

Quartering of Soldiers on Citizens.—One of the grievances which precipitated the revolutionary war was the claim and practice which England adhered to as a right, of quartering English soldiers upon colonial subjects, without their consent and against their protest. But with us no soldier can, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

Search Warrants.—The courts were formerly allowed, in England, to issue search warrants of a general nature, under the protection of which the officer executing the warrant, could enter the house of any person he might suspect of having the article for which he was looking, (usually stolen goods). By means of these warrants the privacy of homes was invaded without reason or necessity.

That the United States courts (this does not refer to state courts) may not so misuse their power, the fourth amendment allows search warrants to be issued only when the party asking for the warrant states on oath the grounds which make the warrant necessary, and particularly describes the place to be searched and the things to be seized if found. This precaution is taken that the people may

be secure in their persons, houses, papers and effects against unreasonable searches and seizures by United States officials.

Private Property for Public Use.—The United States is forbidden, by the last part of the fifth amendment, to take the private property of any one for public use without a just compensation.

Governments often exercise the right of eminent domain and take private property for the purpose of building public roads, parks, wharves and various other public enterprises, but invariably the owner thereof is given a full return for the price of his property, which price is ascertained by appraisement.

Trial by Jury in Civil Cases.—As we have seen, all persons charged with crime have the right to be tried by jury. The seventh amendment preserves the right of trial by jury in suits at common law, in civil cases, where the amount in controversy exceeds twenty dollars.

In suits for amounts under twenty dollars the jury trial would be too expensive.

In equity suits the case is heard by the judge without the aid of a jury.

Rights Reserved to the People.—When a law names a list of things which it includes, it is generally interpreted as though it had named all which were intended to be included; therefore, those not named are excluded.

Now in various parts of the constitution there are enumerated certain rights which the constitution reserves especially to the states or to the people and according to the general rule of interpretation they would have no other rights than those especially named, but to prevent this

rule from applying, the ninth amendment declares that the enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

The general rule for the interpretation of laws applies, however, to the United States in accordance with the tenth amendment, which declares, the powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states, or to the people.

The United States has only such powers as are granted to it, while the states have all power not denied them by the constitution.

Slavery.—Slavery and involuntary servitude, except as a punishment for crime, are prohibited in the United States or any place subject to their jurisdiction by the thirteenth amendment.

The fourteenth amendment makes the former slaves citizens of the United States and of the state wherein they resided, by declaring all persons born or naturalized in the United States and subject to the jurisdiction thereof, to be citizens not only of the United States but also of the state wherein they reside.

This amendment also prohibits a state from abridging the privileges or immunities of citizens of the United States, nor can a state deny to any person within its jurisdiction the equal protection of the laws.

All of the above provisions were calculated to insure to the negro of the south equal rights and privileges with the white race, but the southern states discriminated against their former slaves by prohibiting the right of franchise to them.

This necessitated the passage of the last amendment, which enacts that the right of citizens of the United

States to vote shall not be denied or abridged by the United States, or any state, on account of race, color, or previous condition of servitude.

The thirteenth amendment, therefore, made the slave free; the fourteenth made him a citizen with all the rights of citizens, but citizens are not necessarily voters; so it yet required the fifteenth amendment to insure to the negro the franchise, or right to vote.

DECLARATION OF INDEPENDENCE.

CHAPTER XIV.

UNANIMOUSLY PASSED BY THE CONGRESS OF THE THIRTEEN UNITED STATES OF AMERICA, JULY 4, 1776.

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; and that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to affect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been

the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world:

He has refused his assent to laws the most wholesome and necessary for the public good. He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them. He has refused to pass other laws for the accommodation of large districts of people unless these people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only. He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures. He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people. He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise, the state remaining, in the meantime, exposed to all the dangers of invasion from without and convulsions within. He has endeavored to prevent the population of these states; for that purpose, obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their emigration hither, and raising the conditions of new appropriations of lands. He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers. He has made judges dependent on his will alone for the tenure of their offices and the amount and payment of their salaries. He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance. He has kept among us, in times of peace, standing armies, without the consent of our legislature. He has affected to render the military independent of and superior to the civil power. He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us; for protecting them, by a mock trial, from punishment, for any murders which they should commit on the inhabitants of these states; for cutting off our trade with all parts of the world; for imposing taxes on us without our consent; for depriving us, in many cases, of the benefits of trial by jury. For transporting us beyond seas to be tried for pretended offences. For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies; for taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the powers of our government; for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever. He has abdicated government here, by declaring us out of his protection, and waging war against us. He has plundered our seas, ravaged our coast, burnt our towns, and destroyed the lives of our people. He is at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation. He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands. He has excited domestic insurrections among us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress, in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tryant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts made by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our com-

mon kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war—in peace, friends.

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connections between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK.

New Hampshire.—JOSIAH BARTLETT, WILLIAM WHIPPLE, MATTHEW THORNTON.

Massachusetts Bay.—SAMUEL ADAMS, JOHN ADAMS, ROBERT TREAT PAINE, ELBRIDGE GERRY.

Rhode Island, etc.—STEPHEN HOPKINS, WILLIAM ELLERY.

Connecticut.—ROGER SHERMAN, SAMUEL HUNTINGTON, WILLIAM WILLIAMS, OLIVER WOLCOTT.

New York.—WILLIAM FLOYD, PHILIP LIVINGSTON, FRANCIS LEWIS, LEWIS MORRIS.

New Jersey.—RICHARD STOCKTON, JOHN WITHERSPOON, FRANCIS HOPKINSON, JOHN HART, ABRAHAM CLARK.

Pennsylvania.—ROBERT MORRIS, BENJAMIN RUSH, BENJAMIN FRANKLIN, JOHN MORTON, GEORGE CLYMER, JAMES SMITH, GEORGE TAYLOR, JAMES WILSON, GEORGE ROSS.

Delaware.—CÆSAR RODNEY, GEORGE READ, THOMAS MCKEAN.

Maryland.—SAMUEL CHASE, WILLIAM PACA, THOMAS STONE, CHARLES CARROLL, of Carrollton.

Virginia.—GEORGE WYTHE, RICHARD HENRY LEE, THOMAS

JEFFERSON, BENJAMIN HARRISON, THOMAS NELSON, JUN., FRANCIS LIGHTFOOT LEE, CARTER BRAXTON.

North Carolina.—WILLIAM HOOPER, JOSEPH HEWES, JOHN PENN.

South Carolina.—EDWARD RUTLEDGE, THOMAS HAYWARD, JUN., THOMAS LYNCH, JUN., ARTHUR MIDDLETON.

Georgia.—BUTTON GWINNETT, LYMAN HALL, GEORGE WALTON.

CHAPTER XV.

ARTICLES OF CONFEDERATION

And perpetual union between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia.

ARTICLE I.—The style of this confederacy shall be, "The United States of America."

ART. II.—Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States in congress assembled.

ART. III.—The said states hereby severally enter into a firm league of frendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare; binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ART. IV.—The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state; and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively; provided, that such restriction shall not extend so far as to prevent the removal of property imported into any state to any other state, of which the

owner is an inhabitant; provided also, that no imposition, duties, or restriction shall be laid by any state on the property of the United States, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor, in any state, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offense.

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

ART. V.—For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the first Monday in November, in every year, with a power reserved to each state to recall its delegates, or any of them, at any time within the year, and send others in their stead for the remainder of the year.

No state shall be represented in congress by less than two, nor more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the United States in congress assembled, each state shall have one vote.

Freedom of speech and debate in congress shall not be impeached or questioned in any court or place out of congress; and the members of congress shall be protected in their persons from arrest and imprisonment during the time of their going to, and from, and attending on congress, except for treason, felony, or breach of the peace.

ART. VI. No state, without the consent of the United States in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or

treaty with any king, prince or state; nor shall any person, holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state; nor shall the United States in congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties entered into by the United States in congress assembled with any king, prince, or state, in pursuance of any treaties already proposed by congress to the courts of France and Spain.

No vessels of war shall be kept up, in time of peace, by any state except such number only as shall be deemed necessary, by the United States in congress assembled, for the defense of such state or its trade; nor shall any body of forces be kept up by any state, in time of peace, except such number only as, in the judgment of the United States in congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such state; but every state shall always keep up a well-regulated disciplined militia, sufficiently armed and accoutred; and shall provide and constantly have ready for use, in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No state shall engage in any war, without the consent of the United States in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in congress assembled can be consulted; nor shall any state grant commissions to any ship or vessel of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in congress assembled; and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in congress assembled, unless such

state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in congress assembled shall determine otherwise.

ART. VII.—When land forces are raised by any state for the common defense, all officers of or under the rank of colonel shall be appointed by the legislature of each state respectively, by whom such forces shall be raised, or in such manner as such state shall direct; and all vacancies shall be filled up by the state which first made the appointment.

ART. VIII.—All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury which shall be supplied by the several states in proportion to the value of all land within each state, granted to or surveyed for any person as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in congress assembled shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states, within the time agreed upon by the United States in congress assembled.

ART. IX.—The United States, in congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article: Of sending and receiving ambassadors: Entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subject to, or from prohibiting the exportation or importation of any species of goods or commodities whatever: Of establishing rules for deciding, in all cases, what captures on land or water shall be legal; and in what manner prizes, taken by land or naval forces in the service of the United States, shall be divided or apportioned: Of granting letters of marque and reprisal in times of peace: Appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for

receiving and determining, finally, appeals in all cases of captures; provided that no member of congress shall be appointed a judge of any of the said courts.

The United States, in congress assembled, shall also be the last resort, on appeal, in all disputes and differences now subsisting, or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent of any state, in controversy with another, shall present a petition to congress, stating the matter in question, and praying for a hearing, notice thereof shall be given, by order of congress, to the legislative or executive authority of the other state in controversy; and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: But if they cannot agree, congress shall name three persons out of each of the United States; and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as congress shall direct, shall, in the presence of congress, be drawn out by lot, and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination. And if either party shall neglect to attend at the day appointed, without showing reasons which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner above prescribed, shall be final and conclusive. And if any of the parties shall refuse to submit to the authority of such court, or to appear, or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being, in either case, transmitted to congress and lodged among the acts of congress for the security of the parties concerned: Provided

that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward:" Provided also, that no state shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdiction, as they may respect such lands and the states which passed such grants, are adjusted, the said grants or either of them, being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The United States, in congress assembled, shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority or by that of the respective states; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the states; provided, that the legislative right of any state within its own limits be not infringed or violated; establishing and regulating postoffices from one state to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the land and naval forces, and directing their operations.

The United States, in congress assembled, shall have authority to appoint a committee to sit in the recess of congress, to be denominated a committee of the states, and to consist of one delegate from each state, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside, provided, that no person be allowed to serve in the office of president more than one year in any term of three years;

to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state, which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm and equip them, in a soldierlike manner, at the expense of the United States, and the officers and men so clothed, armed and equipped, shall march to the place appointed and within the time agreed on by the United States in Congress assembled; but if the United States in congress assembled, shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than its quota thereof, such extra number shall be raised, officered, clothed, armed and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed and equipped, shall march to the place appointed and within the time agreed on by the United States in congress assembled.

The United States, in congress assembled, shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy unless nine states assent to the same, nor shall a question on any other point, except for adjournment from day to day, be determined, unless by the votes of a majority of the United States in congress assembled.

The congress of the United States shall have power to adjourn at any time within the year and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months; and shall publish the journal of their proceedings monthly, except such parts thereof, relating to treaties, alliances or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

ART. X.—The committee of the states, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the United States in congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided, that no power be delegated to the said committee for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the United States assembled is requisite.

ART. XI.—Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into and entitled to all the advantages of this union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

ART. XII.—All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. XIII.—Every state shall abide by the determination of the United States, in congress assembled, on all questions which by this confederation, are submitted to them; and the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a congress of the United States, and be afterwards confirmed by the legislatures of every state.

And whereas, it hath pleased the Great Governor of the world to incline the hearts of the legislatures we respectively represent in congress to approve of and to authorize us to ratify the said articles of confederation and perpetual union, know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained; and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in congress assembled on all questions which, by the said confederation, are submitted to them, and that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual.

In witness whereof we have hereunto set our hands in congress.

Done at Philadelphia, in the State of Pennsylvania, the 9th day of July, in the year of our Lord 1778, and in the third year of the Independence of America.

CHAPTER XVI.

THE CONSTITUTION OF THE UNITED STATES.

Preamble.—We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

LEGISLATIVE DEPARTMENT.

Section 1.—**Legislative Powers.**—All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Sec. 2.—**House of Representatives.**—The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the

Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made the state of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island and Providence Plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SEC. 3.—**Senate.**—The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator, who shall not have attained to the age of thirty years, and been nine years a citizen of the United States and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore* in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation.

When the president of the United States is tried the chief justice shall preside, and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4.—**Elections—Sessions.**—The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5.—**Regulations of Both Houses.**—Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6.—**Compensation, Privileges, etc.**—The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at

the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Sec. 7.—**Bills and Laws.**—All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless congress by their adjournment prevents its return, in which case it shall not be a law.

Every order, resolution or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. 8.—**Powers of Congress.**—The congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare

of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offenses against the laws of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SEC. 9.—**Limitations Upon the Powers of Congress.**—The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from one state, be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding an office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince or foreign state.

SEC. 10.—**Limitations Upon the Powers of States.**—No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money, emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be abso-

lutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

EXECUTIVE DEPARTMENT.

SECTION 1.—**The President.**—The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and together with the vice president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them president; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the president. But in

choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors, shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural-born citizen, or a citizen of the United States, at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation or inability both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation which shall be neither increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enters on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

Sec. 2.—**His Powers and Duties.**—The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the

actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers as they may think proper, in the president alone, in the courts of law or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SEC. 3.—**His Duties and Powers as to Congress.**—He shall from time to time give to the congress such information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may on extraordinary occasions convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all of the officers of the United States.

SEC. 4.—**Forfeiture of Office.**—The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

JUDICIAL DEPARTMENT.

SECTION 1.—**Judicial Power.**—The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the congress may from time to time ordain and

establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2. **Extent of Judicial Power.**—The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crime shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SEC. 3.—**Treason.**—Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

ARTICLE IV.

GENERAL PROVISIONS.

SECTION 1.—**Acts, Records and Proceedings in Other States.**—Full faith and credit shall be given in each state to the

public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SEC. 2.—**Personal Rights.**—The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3.—**Admission of States.—Territories.**—New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or part of states, without the consent of the legislature of the states concerned as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SEC. 4.—**Republican Form of Government.**—The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

HOW AMENDED.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the

application of the legislature of two-thirds of the several states, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

EFFECT OF THE CONSTITUTION.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

ESTABLISHMENT OF THE CONSTITUTION.

The ratification of the convention of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of

the independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names:

Geo. Washington, President and Deputy from VIRGINIA.

NEW HAMPSHIRE—John Langdon, Nicholas Gilman.

MASSACHUSETTS—Nathaniel Gorham, Rufus King.

CONNECTICUT—William Samuel Johnson, Roger Sherman.

NEW YORK—Alexander Hamilton.

NEW JERSEY—William Livingston, David Brearly, William Patterson, Jonathan Dayton.

PENNSYLVANIA—Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzsimons, Jared Ingersoll, James Wilson, Gouverneur Morris.

DELAWARE—George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom.

MARYLAND—James McHenry, Daniel of St. Thomas Jenifer, Daniel Carroll.

VIRGINIA—John Blair, James Madison, Jr.

NORTH CAROLINA—William Blount, Richard Dobbs Spaight, Hugh Williamson.

SOUTH CAROLINA—John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler.

GEORGIA—William Few, Abraham Baldwin.

Attest: William Jackson, *Secretary.*

AMENDMENTS.

[The first ten amendments were proposed at the first session of the first Congress of the United States, which was begun and held at the city of New York, on the 4th of March, 1789, and were adopted by the requisite number of states.—1 vol. Laws of U. S., p. 72.]

[The preamble and resolution following, preceded the original proposition of the amendments, and, as they have been supposed by a high equity judge (8 Wendell's reports, p. 100) to have an important bearing on the construction of those amendments, they are here inserted. They will be found in the journals of the first session of the first congress.]

Congress of the United States, begun and held at the city of New York, on Wednesday, the 4th of March, 1789. The conventions of a number of the states having at the time of their adopting

the constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the ground of public confidence in the government, will best insure the beneficent ends of its institution,—

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both houses concurring, That the following articles be proposed to the legislatures of the several states, as amendments to the constitution of the United States, all or any of which articles, when ratified by three-fourths of said legislatures, to be valid to all intents and purposes as part of said constitution, namely:

ARTICLE I.

Freedom of Speech, Press and Religion.—Congress shall make no law respecting an establishment of religion, or prohibiting the exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

Right to Bear Arms.—A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

Quartering Soldiers.—No soldier shall in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

Search Warrants.—The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

Personal and Property Rights.—No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI.

Rights of Accused.—In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII.

Jury Trial.—In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive Bail and Fines.—Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

Construction of the Constitution.—The enumeration in the constitution, of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

Powers not Delegated, Reserved.—The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ARTICLE XI.

Suits Against a State.—The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE XII.

Choosing the President.—The electors shall meet in their respective states and vote by ballot for president and vice-president, one of whom at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the persons voted for as president, and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right

of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the highest number of votes as vice-president shall be the vice-president, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.

ARTICLE XIII.

SECTION 1.—**Slavery.**—Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SEC. 2.—Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

RECONSTRUCTION.

SECTION 1.—**Citizenship.**—All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2.—**Representation.**—Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the

United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

SEC. 3.—**Rebels Disqualified.**—No person shall be a senator or representative in congress, or elector of president or vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath as member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; but congress may, by a vote of two-thirds of each house, remove such disability.

SEC. 4.—**The War Debt.**—The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing the insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SEC. 5.—The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

SECTION 1.—**Right to Vote.**—The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color or previous condition of servitude.

SEC. 2.—The congress shall have power to enforce this article by appropriate legislation.

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